



SCOTTISHPOWER  
RENEWABLES

# East Anglia ONE North and East Anglia TWO Offshore Windfarms

## Applicants' Comments on the ExA's Commentary on the dDCO

Applicants: East Anglia ONE North Limited and East Anglia TWO Limited  
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Author: Shepherd and WedderburnLLP

Applicable to **East Anglia ONE North** and **East Anglia TWO**



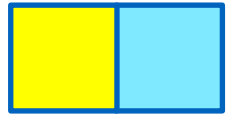
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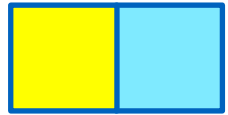
## Glossary of Acronyms

APP	Application Document
BEIS	Department of Business Energy and Industrial Strategy
CA	Compulsory Acquisition
CfD	Contract for Difference
CIA	Cumulative Impact Assessment
COCP	Code of Construction Practice
DCO	Development Consent Order
DML	Deemed Marine Licence
EIA	Environmental Impact Assessment
ESC	East Suffolk Council
ExA	Examining Authority
MMO	Marine Management Organisation
MoD	Ministry of Defence
NATS	National Air Traffic Service
NE	Natural England
NGET	National Grid Electricity Transmission
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
OFTO	Offshore Transmission Owner
OLEMS	Outline Landscape and Ecological Management Strategy
SAC	Special Area of Conservation
SCC	Suffolk County Council
SoCG	Statement of Common Ground
SoS	Secretary of State
SPA	Special protected Area
SPR	ScottishPower Renewables
UK	United Kingdom
UXO	Unexploded Ordnance
WQ	Written Question

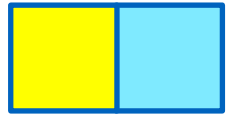


## Glossary of Terminology

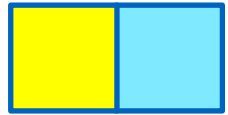
Applicants	East Anglia TWO Limited / East Anglia ONE North Limited
Cable sealing end compound	A compound which allows the safe transition of cables between the overhead lines and underground cables which connect to the National Grid substation.
Cable sealing end (with circuit breaker) compound	A compound (which includes a circuit breaker) which allows the safe transition of cables between the overhead lines and underground cables which connect to the National Grid substation.
Construction consolidation sites	Compounds associated with the onshore works which may include elements such as hard standings, lay down and storage areas for construction materials and equipment, areas for vehicular parking, welfare facilities, wheel washing facilities, workshop facilities and temporary fencing or other means of enclosure.
Construction operation and maintenance platform	A fixed offshore structure required for construction, operation, and maintenance personnel and activities.
The Councils	East Suffolk Council and Suffolk County Council
Development area	The area comprising the onshore development area and the offshore development area (described as the 'order limits' within the Development Consent Order).
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
European site	Sites designated for nature conservation under the Habitats Directive and Birds Directive, as defined in regulation 8 of the Conservation of Habitats and Species Regulations 2017 and regulation 18 of the Conservation of Offshore Marine Habitats and Species Regulations 2017. These include candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation and Special Protection Areas.
Generation Deemed Marine Licence (DML)	The deemed marine licence in respect of the generation assets set out within Schedule 13 of the draft DCO.
Horizontal directional drilling (HDD)	A method of cable installation where the cable is drilled beneath a feature without the need for trenching.
HDD temporary working area	Temporary compounds which will contain laydown, storage and work areas for HDD drilling works.



Inter-array cables	Offshore cables which link the wind turbines to each other and the offshore electrical platforms, these cables will include fibre optic cables.
Jointing bay	Underground structures constructed at intervals along the onshore cable route to join sections of cable and facilitate installation of the cables into the buried ducts.
Landfall	The area (from Mean Low Water Springs) where the offshore export cables would make contact with land, and connect to the onshore cables.
Link boxes	Underground chambers within the onshore cable route housing electrical earthing links.
Meteorological mast	An offshore structure which contains metrological instruments used for wind data acquisition.
Mitigation areas	Areas captured within the onshore development area specifically for mitigating expected or anticipated impacts.
Marking buoys	Buoys to delineate spatial features / restrictions within the offshore development area.
Monitoring buoys	Buoys to monitor <i>in situ</i> condition within the windfarm, for example wave and metocean conditions.
National electricity grid	The high voltage electricity transmission network in England and Wales owned and maintained by National Grid Electricity Transmission
National Grid infrastructure	A National Grid substation, cable sealing end compounds, cable sealing end (with circuit breaker) compound, underground cabling and National Grid overhead line realignment works to facilitate connection to the national electricity grid, all of which will be consented as part of the proposed East Anglia TWO / East Anglia ONE North project Development Consent Order but will be National Grid owned assets.
National Grid overhead line realignment works	Works required to upgrade the existing electricity pylons and overhead lines (including cable sealing end compounds and cable sealing end (with circuit breaker) compound) to transport electricity from the National Grid substation to the national electricity grid.
National Grid overhead line realignment works area	The proposed area for National Grid overhead line realignment works.
National Grid substation	The substation (including all of the electrical equipment within it) necessary to connect the electricity generated by the proposed East Anglia TWO / East Anglia ONE North project to the national electricity grid which will be owned by National Grid but is being consented as part of the proposed East Anglia TWO / East Anglia ONE North project Development Consent Order.
National Grid substation location	The proposed location of the National Grid substation.
Natura 2000 site	A site forming part of the network of sites made up of Special Areas of Conservation and Special Protection Areas designated respectively under the Habitats Directive and Birds Directive.
Offshore cable corridor	This is the area which will contain the offshore export cables between offshore electrical platforms and landfall.
Offshore development area	The East Anglia TWO / East Anglia ONE North windfarm site and offshore cable corridor (up to Mean High Water Springs).

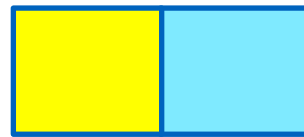


Offshore electrical infrastructure	The transmission assets required to export generated electricity to shore. This includes inter-array cables from the wind turbines to the offshore electrical platforms, offshore electrical platforms, platform link cables and export cables from the offshore electrical platforms to the landfall.
Offshore electrical platform	A fixed structure located within the windfarm area, containing electrical equipment to aggregate the power from the wind turbines and convert it into a more suitable form for export to shore.
Offshore export cables	The cables which would bring electricity from the offshore electrical platforms to the landfall. These cables will include fibre optic cables.
Offshore infrastructure	All of the offshore infrastructure including wind turbines, platforms, and cables.
Offshore platform	A collective term for the construction, operation and maintenance platform and the offshore electrical platforms.
Onshore cable corridor	The corridor within which the onshore cable route will be located.
Onshore cable route	This is the construction swathe within the onshore cable corridor which would contain onshore cables as well as temporary ground required for construction which includes cable trenches, haul road and spoil storage areas.
Onshore cables	The cables which would bring electricity from landfall to the onshore substation. The onshore cable is comprised of up to six power cables (which may be laid directly within a trench, or laid in cable ducts or protective covers), up to two fibre optic cables and up to two distributed temperature sensing cables.
Onshore development area	The area in which the landfall, onshore cable corridor, onshore substation, landscaping and ecological mitigation areas, temporary construction facilities (such as access roads and construction consolidation sites), and the National Grid Infrastructure will be located.
Onshore infrastructure	The combined name for all of the onshore infrastructure associated with the proposed East Anglia TWO / East Anglia ONE North project from landfall to the connection to the national electricity grid.
Onshore preparation works	Activities to be undertaken prior to formal commencement of onshore construction such as pre-planting of landscaping works, archaeological investigations, environmental and engineering surveys, diversion and laying of services, and highway alterations.
Onshore substation	The East Anglia TWO / East Anglia ONE North substation and all of the electrical equipment within the onshore substation and connecting to the National Grid infrastructure.
Onshore substation location	The proposed location of the onshore substation for the proposed East Anglia TWO / East Anglia ONE North project.
Platform link cable	Electrical cable which links one or more offshore platforms. These cables will include fibre optic cables.
Safety zones	A marine area declared for the purposes of safety around a renewable energy installation or works / construction area under the Energy Act 2004.
Scour protection	Protective materials to avoid sediment being eroded away from the base of the foundations as a result of the flow of water.
Transition bay	Underground structures at the landfall that house the joints between the offshore export cables and the onshore cables.
Transmission DML	The deemed marine licence in respect of the transmission assets set out within Schedule 14 of the draft DCO.



# 1 Introduction

1. Following the issue of the Examining Authority's (ExA) commentary on the East Anglia ONE North and East Anglia TWO projects ('the Projects') draft Development Consent Orders (DCO) (PD-031) on 12<sup>th</sup> February 2021 to East Anglia ONE North Limited and East Anglia TWO Limited ('the Applicants') and other Interested Parties, the Applicants have responded to each of their relevant comments.
2. This document, is applicable to both the East Anglia ONE North and East Anglia TWO DCO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's procedural decisions on document management of 23<sup>rd</sup> December 2019 (PD-004). Whilst this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it for the other project submission.
3. Where an individual comment relates to one project only it is clearly marked in column 4 of the table below A yellow icon with a 1 indicates the question is applicable to the East Anglia ONE North project, a blue icon with a 2 indicates it is applicable to the East Anglia TWO project, and both a yellow and a blue icon with a 1 and 2 indicate the comment is applicable to both Projects.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
1	<b>General Observations</b>			
1.1	None – missing provisions Both dDCOs	The Applicants	<p><b>Adaptation Provisions</b></p> <p>The ExAs have noted the potential relationship between the non-array elements of the proposed developments and policy change in relation to onshore transmission system connections, as indicated in Energy White Paper and subject to potential change in the BEIS Offshore Transmission Review. The Applicants have responded in summary terms indicating that they do not consider that the proposed development would be subject to any emerging policy change because the proposed developments are already at an advanced position in the approvals pipeline. They have outline that they consider they have prepared an economically efficient transmission system connection design that does not give rise to unacceptable adverse effects. They have made clear that they do not seek 'pathfinder' status under the Energy White Paper for their transmission system connections. They have sought to control risks associated with these policy changes by reducing the time allowable for commencement from seven to five years.</p> <p>That approach notwithstanding, taking an alternative approach without prejudice, how would the Applicants consider that the dDCOs might be amended to provide flexible adaptation</p>	<p>The Applicants would first of all wish to respond to the premise on which the question is posed. The Energy White Paper provides an intention to create a new offshore grid structure for the end of this decade. The Department of Business Energy and Industrial Strategy (BEIS) review is the starting point of how that might be accomplished. This review is in its early stages and the actions are being progressed through workstreams. The “pathfinder” concepts have yet to be scoped.</p> <p>The ExA have suggested that the Applicants have sought to control risks of policy change by reducing the time for commencement. The change was made by the Applicants due to the ExA requesting the Applicants to justify the timescales. The Applicants have responded to changes in Government Policy made at the end of 2019 through seeking to bring forward the grid connection dates and thereby the delivery of the Projects. This has also involved early engagement with the supply chain. It is for these reasons that the Applicants were able to reduce the commencement dates.</p>

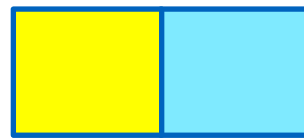




Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>to face policy change around transmission system connections, should the Secretary of State form the view that (at a relevant time) change policy around transmission system connections was applicable to the proposed developments and or that adaptation to support pathfinder status under the Energy White Paper was desirable?</p> <p>This matter is raised generally and with no particular suggestion as to how such provisions might be drafted into the dDCOs. The elements that might need to be included however are:</p> <ul style="list-style-type: none"> <li>• Provisions in relation to Compulsory Acquisition (CA) and/or Temporary Possession – which might enable change or fall-away if an alternative transmission connection method were to emerge.</li> <li>• Provisions in relation to Works, principally onshore but also in the offshore cable alignments – which might enable change.</li> </ul>	<p>The Applicants' position is not that they would not seek pathfinder status. The position is that on the information that has been released to date it is unlikely that the projects would be suitable.</p> <p>At the current time the future legal and regulatory structures have not been formulated. On the balance of evidence before the Examination it is clear that the Government recognise the importance of the acceleration of deployment and this in turn relies on investment and the development of the supply chain. These are key policy imperatives and are likely to heavily influence any transitional arrangements.</p> <p>In terms of the hypothetical question. We assume that an alternative "grid solution" has been developed and the Applicants have been "encouraged" or "forced" to use it. There is no need for an amendment of the draft Development Consent Order (DCO). Section 153 of the Planning Act 2008 brings schedule 6 in to effect. Under paragraph 3(7) of schedule 6 the Secretary of State is empowered to change a development consent order. The circumstances outlined above would represent "exceptional circumstances"</p>



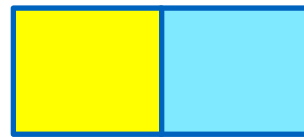
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
				<p>Given this express statutory power it would be inappropriate to draft provisions within the draft DCO.</p> <p>The draft DCOs seek consent for specific projects including the offshore grid connection infrastructure. The Applicants do not consider that drafting to provide some future flexibility would be appropriate. It has not been assessed and would not be within the Rochdale envelope. Any alternative is likely to require a formal alteration to the Order or further consents.</p>
1.2	Both dDCOs	The Applicants	<p><b>Review</b></p> <p>When the draft development consent order (dDCO) is finalised (ahead of submission at <b>Deadline 7</b>), all internal references, statutory citations and references and legal footnotes should be checked and updated as required. Drafting should be reviewed to follow best practice in Planning Inspectorate Advice Notes (ANs) <a href="#">13</a> and <a href="#">15</a> and (as relevant) guidance on statutory instrument drafting from the <a href="#">Office of the Parliamentary Counsel</a> (June 2020).</p>	Noted.
1.3		The Applicants	<p><b>References to companies</b></p> <p>Where a company is referred to in the dDCOs, the name of the company should be the name as recorded in the Companies House register and</p>	Noted. The Applicants will make the necessary updates in the next version of the draft DCO.



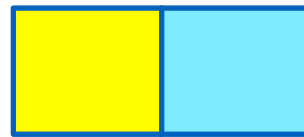
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			should include the registered company number. Please review all references to companies and ensure that this is done.	
1.4		The Applicants	<p><b>Use of 'and/or'</b></p> <p>There are multiple uses of and/or in drafting which is not considered to be appropriate for statutory instruments. Please find an alternative.</p>	The Applicants will review the use of "and/or" throughout the draft DCO and will amend the text where this is considered appropriate. The Applicants would however note that in some instances, this terminology is considered appropriate and note that "and/or" is found regularly in statutory instruments and in primary legislation although it is acknowledged that such terminology could give rise to uncertainty and so where there is potential for this to occur, the Applicants will amend the text accordingly.
1.5	Both Explanatory Memoranda	The Applicants	<p><b>Final Explanatory Memoranda</b></p> <p>A thorough justification should be provided in <b>Deadline 7</b> Explanatory Memoranda (EM) for every Article and Requirement in each dDCO, explaining why the inclusion of the power is appropriate in the specific case. The extent of justification should be proportionate to the degree of novelty and/ or controversy in relation to the inclusion of that particular power. Relevant reference should be made to equivalent provisions in made DCOs, recognising that the Infrastructure Planning (Model Provisions) Order</p>	Noted.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			(the MPO) is not a binding source and that the model provisions set out there are now old – practice has evolved.	
<b>2</b>	<b>Contents</b>			
2.1	Pages 1 – 3	The Applicants	<p><b>Review</b></p> <p>The Applicants are requested to review the structure of both dDCOs ensuring that the numbering and titling of all provisions remains consistent and is reflected in the Table of Consents for each, throughout the Examinations.</p>	Noted.
<b>3</b>	<b>Preamble</b>			
3.1	Pages 3 – 4	The Applicants	<p><b>Special powers relating to Compulsory Acquisition (CA)</b></p> <p>Where special powers under Pt 7 Chapter 1 of the 2008 Act (specifically ss 131 and 132) need to be employed, their application is required to be endorsed on the face of the Orders – in the preamble. Please confirm that no such powers need to be added to the preambles.</p>	Sections 131 and 132 do not apply to the order and therefore do not require to be referenced in the preamble.
<b>4</b>	<b>Articles</b>			
4.1	Arts 2	The Applicants	<p><b>Interpretation</b></p> <p><i>Art 2(1) definitions: authorised development</i></p>	The Applicants do not consider it necessary to update the drafting of Schedule 1 Part 2 as the definition of ancillary works makes it clear that such works are not development



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>The definition of 'authorised development' includes "any other development authorised by this Order...."</p> <p>The "authorised project" definition includes 'ancillary works' in addition to the 'authorised development'.</p> <p>The effects of this drafting can be argued to require an amendment to Schs 1 Pt 2 (see below) to provide that those provisions do not authorise works that constitute development for the purposes of s32 of the 2008 Act. Please respond.</p>	<p>within the meaning of section 32 of the 2008 Act.</p>
4.2	Arts 2	The Applicants East Suffolk Council Suffolk County Council	<p><i>Art 2(1) definitions: commence</i></p> <p>Definitions of "commence" on land are limited to the first carrying out of any material operation as defined in s 155 of the 2008 Act 'other than onshore preparation works'.</p> <p>As raised in ISHs6, "<i>onshore preparation works</i>" means operations consisting of site clearance, demolition work, pre-planting of landscaping works, archaeological investigations, environmental surveys, ecological mitigation, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of temporary means of enclosure, creation of site accesses, footpath creation,</p>	<p>It is standard practice for DCOs for Nationally Significant infrastructure Projects (NSIPs) to exclude preparatory activities from the definition of commence. It is however acknowledged by the Applicants that some of the onshore preparation works may potentially have environmental effects and therefore such preparation works have already been made subject to appropriate requirements to ensure that the relevant planning authority can approve details in respect of such works before they are carried out.</p> <p>This approach to the definition of commence is critical to ensure that pre-commencement activities can be carried out in a timely manner prior to commencement</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p><i>erection of welfare facilities and the temporary display of site notices or advertisements;...</i></p> <p>This is a potentially wide class of exceptions to the limitation on commencement. It enables substantial pre-commencement works with relevant environment effects. Detailed plans and approvals pursuant to (for example) Rs 11 (Stages of authorised development onshore), 12 (Detailed design parameters onshore) or 13 (Landfall construction method statement) (or at least relevant parts of them) might be expected to secure aspects of the environmental performance of works including site clearances, demolitions, creation of accesses, remedial groundworks, any works relevant to flooding or drainage or pre-planting in landscape works.</p> <p>a) Is it necessary to further specify that relevant aspects of plans and approvals under requirements be completed before such pre-commencement works take place? How might that be done?</p> <p>b) Alternatively, can the definition of “<i>onshore preparation works</i>” be amended to provide that all such works must take place ‘to the extent assessed in the ESs’?</p>	<p>of the works and do not hold up the construction of the project, whilst still being subject to appropriate controls and approvals.</p> <p>However, in light of the comments raised by the ExA and by stakeholders, the Applicants intend to include a new requirement in the draft DCO at Deadline 7 which requires the approval of an onshore preparation works management plan which will ensure that relevant onshore preparation works are subject to approval. An outline of the information that will be included within the onshore preparation works management plan has been included in Appendix 1 of the updated <b>Outline Code of Construction Practice</b> submitted at Deadline 6 (document reference 8.1).</p>
4.3	Arts 2	The Applicants	<b>Art 2(1) definitions: grid connection works and transmission works</b>	Associated development in respect of the transmission works is set out in paragraph 1 of Part 1 of Schedule 1 and associated



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		East Suffolk Council Suffolk County Council The Marine Management Organisation	Definitions of "grid connection works" and "transmission works" include 'any related associated development'.  a) Are Schs 1 Pt 1 sufficiently clear about what the related associated development is?	development in respect of the grid connection works is set out in paragraph 2 of Part 1 of Schedule 1. The Applicants therefore consider that it is clear what the related associated development is.
4.4	Arts 2	The Applicants East Suffolk Council Suffolk County Council The Marine Management Organisation	<i>Art 2(1) definitions: environmental statement</i>  The " <i>environmental statement</i> " means the document certified as the environmental statement by the Secretary of State under article 36 (certification of plans etc.)'. There are many relevant documents with different dates and versions and further changes are likely before the end of the Examinations.  a) The Applicants are requested to ensure that the list is accurately updated at all following deadlines.  b) The ExAs note the proposal to implement a Schedule based on that used for the Boreas dDCO by <b>Deadline 7</b> – and this would provide a significant improvement.  See also Arts 36 (certification of plans etc.)	The Applicants will include a new Schedule in the draft DCO at Deadline 7 which will list the documents to be certified in a similar format to that set out within the Norfolk Boreas draft DCO. The Applicants will ensure that the list of documents is accurate and up to date.
4.5	Arts 2	All Interested Parties	<i>Art 2(1) definitions: maintain</i>	No response.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			This definition is wide, a matter raised at ISHs6, but is expressly limited 'to the extent assessed in the [ESs]'. Are parties now broadly content with this drafting?	
4.6	Arts 2	All Interested Parties	<p><i>Art 2(1) definitions: relevant to onshore substation design</i></p> <p>References to the "outline national grid substation design principles statement" and the "outline onshore substation design principles statement" have been removed at Deadline 5. Reference to the "substations design principles statement" which is also to be a certified document have been added.</p> <p>a) Are parties content that this change is appropriate and has been appropriately reflected elsewhere in the dDCOs?</p>	No response.
4.7	Arts 2	The Applicants Any Statutory Undertaker IPS	<p><i>Art 2(1) definitions: statutory undertaker</i></p> <p>In this definition, "<i>statutory undertaker</i>" means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act...'. </p> <p>a) Given the different definitions of statutory undertakers as between s127 and s138 of the 2008 Act, does this definition sufficiently describe the classes of person intended to be</p>	<p>The Applicants do not consider that the definition of "statutory undertaker" should refer to s138 PA 2008. The approach taken follows extensive precedent including the following Orders:</p> <ul style="list-style-type: none"> <li>• The Norfolk Vanguard Offshore Wind Farm Order 2020</li> <li>• The Riverside Energy Park Order 2020</li> <li>• The East Anglia THREE Offshore Wind Farm Order 2017</li> </ul>





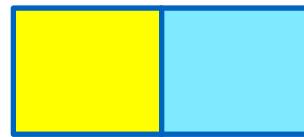
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>defined as statutory undertakers for the purposes of these dDCOs?</p> <p>b) If not, the Applicants are requested to revise drafting.</p> <p>See also Arts 28.</p>	<p>In addition, the definition of “statutory undertaker” in the model provisions contained in The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 does not refer to s138.</p> <p>The Applicants have in addition included express protective provisions for electricity, gas, water and sewerage undertakers.</p>
4.8	Arts 2	The Applicants	<p><i>Missing definition: begin</i></p> <p>R16 (Highway accesses) refers to the construction of accesses which ‘must not begin’ until relevant details are submitted and approved?</p> <p>c) Is this drafting a conscious means of providing control over the start of an aspect of works enabled to start pre-commencement? (see definition of commence above)</p> <p>d) However, is there a need to define the term begin if its being used in this manner?</p>	<p>Yes, the use of the term “begin” is intentional to ensure that onshore preparation works are not excluded, as would be the case if the term “commence” was used.</p> <p>The Applicants do not consider it necessary to define “begin” as the common dictionary meaning is appropriate.</p>
4.9	Arts 2	The Applicants	<p><i>Missing definition: intrusive</i></p> <p>The term ‘intrusive’ is used in drafting in the dDCOs in several provisions. It is not defined and so will take its common English / dictionary meaning. In cases of dispute, this might generate uncertainty. Should the term be defined??</p>	<p>The Applicants intend to include a definition of “intrusive” in the draft DCO at Deadline 7.</p>



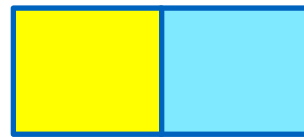
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
4.10	Arts 2	The Applicants R12 Natural England	<i>Missing definition: SAC</i> The term 'SAC' is used in drafting in the dDCOs in several provisions. It is not defined. Should the term be defined?	The Applicants will define Special protection Area (SPA) and Special Area of Conservation (SAC) in the next version of the draft DCO.
4.11	Arts 2	The Applicants	<i>Missing definition: East Anglia TWO onshore substation</i> Does this term need to be defined for use in Art 7(1)(b)(i)?	The reference to East Anglia TWO onshore substation in Article 7(1)(b)(i) is simply a reference to the heading of Requirement 27 and therefore it would seem more appropriate to retain the definition of "East Anglia TWO onshore substation" within Requirement 27 itself.
4.12	Arts 2	The Applicants	<i>Missing definition: East Anglia TWO cable route</i> Does this term need to be defined for use in Sch 10 Pt 5 para 11?	The term used in Schedule 10 Part 5 is "proposed East Anglia TWO cable route" and this is defined in paragraph 2 of Part 5 of the Schedule.  The term "East Anglia Two cable route" is not used within the draft DCO and therefore it is not considered necessary for a definition to be included in Article 2.
4.13	Arts 2	The Applicants	<i>Missing definition: East Anglia ONE North onshore substation</i>	The reference to East Anglia ONE North onshore substation in Article 7(1)(b)(i) is simply a reference to the heading of Requirement 27 and therefore it would seem more appropriate to retain the definition of "East Anglia ONE North



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
				onshore substation” within Requirement 27 itself.
4.14	Arts 2	The Applicants	<p><i>Missing definition: East Anglia ONE North cable route</i></p> <p>Does this term need to be defined for use in Sch 10 Pt 5 para 11?</p>	<p>The term used in Schedule 10 Part 5 is “proposed East Anglia ONE North cable route” and this is defined in paragraph 2 of Part 5 of the Schedule.</p> <p>The term “East Anglia ONE North cable route” is not used within the draft DCO and therefore it is not considered necessary for a definition to be included in Article 2.</p>
4.15	Arts 3	The Applicants	<p><b>Development consent etc. granted by the Order(s)</b></p> <p>In Arts 3(2) the term ‘scheduled works’ is not defined or described.</p> <p>a) Is it ‘works comprising the authorised development in Schedule 1 Part 1?</p> <p>b) Is a drafting change required?</p>	<p>The term “scheduled works” is defined in Article 2 of the draft DCO. The Applicants do not consider any further drafting changes are required.</p>
4.16	Arts 5	The Applicants Affected Persons	<p><b>Benefit of the Order(s)</b></p> <p>A transfer of the benefit of the Order(s) from one to another undertaker generally requires the consent of the Secretary of State. Under Arts 5(7) it does not – if the transfer is to another Electricity Act 1989 licensed generating undertaker – and – any relevant financial claims arising from the</p>	<p>The Applicants consider the drafting to be both clear and appropriate. The article provides for the transfer of the whole or part of the benefit of the Order with the consent of the Secretary of State, subject to certain exceptions. The exceptions specified within Article 5 are preceded in numerous DCOs including the East Anglia ONE Offshore Wind Farm Order 2014 and the</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>compulsory acquisition or temporary possession provisions have been concluded.</p> <p>a) Is this drafting clear and appropriate?</p>	<p>East Anglia THREE Offshore Wind Farm Order 2017 and more recently in the Norfolk Vanguard Offshore Wind Farm Order 2020 and the Hornsea Three Offshore Wind Farm Order 2020.</p> <p>Where consent is not required, paragraph (9) of Article 5 requires written notification to be given to the Secretary of State and, where the transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority, prior to a transfer or grant of any benefit.</p>
4.17	Arts 6	The Applicants Affected Person	<p><b>Application and modification of legislative provisions</b></p> <p>Arts 6(2) disapply the temporary possession provisions of the Neighbourhood Planning Act 2017 (which have yet to be the subject of a commencement order). As raised in ISHs6, this provision has become widely included in recent made DCOs. However, the rationale for its inclusion in such DCOs included (inter alia) argument that projects that were designed and consulted upon before the Neighbourhood Planning Act 2017 received Royal Assent should not be constrained to deliver to additional timescales (and costs) around temporary possession processes that were not in the contemplation of the applicants and affected</p>	<p>The Applicants refer to their previous submissions at Section 3.2.1 of the <b>Applicants' Written Summary of Oral Case (ISH6)</b> (REP5-030). The Applicants consider the disapplication of the temporary possession provisions of the Neighbourhood Planning Act 2017 to be justified and well precedented, including in recently granted Orders.</p>



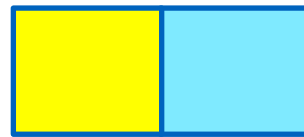
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>persons when project design and consultation took place. However, for projects such as these, that argument has less weight, as the Applicants and Affected Persons could have considered the potential effects of the Neighbourhood Planning Act 2017 from early in the design stage and made appropriate provision in delivery plans.</p> <p>The ExAs note the Applicants' positions and that the passage of time from Royal Assent for the Neighbourhood Planning Act 2017 without the commencement of these powers begins to raise the possibility that they might never be commenced.</p> <p>Is there any remaining argument against the disapplication of these powers?</p>	
4.18	Arts 7	The Applicants Interest Parties Affected Persons	<p><b>Defence to proceedings in respect of statutory nuisance</b></p> <p>Existing concerns raised at ISHs6 are noted.</p> <p>a) Any outstanding concerns at the extent or effect of the proposed defence must be submitted by Deadline 6.</p> <p>b) Arts 7(1)(a)(i) refers to the Control of Pollution Act 1974. Are relevant provisions of this legislation still on the statute book? Section 65 is understood to have been repealed?</p>	<p>a) No response.</p> <p>b) Article 7 refers to sections 60 and 61 of the Control of Pollution Act 1974, both of which are in force.</p> <p>c) See Applicants' response at rows 4.11 and 4.13 above.</p> <p>d) The Applicants do not consider any drafting amendments to be required.</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>c) Arts 7(1)(b) (i) in (1) refers to the onshore substation of the project proposed to be authorised by the other dDCO (2) – and vice versa. Do the substations referred to here need to be defined?</p> <p>d) Is any changed drafting necessary?</p>	
4.19	Arts 16	The Applicants The Environment Agency Suffolk County Council	<p><b>Discharge of water</b></p> <p>Are the Environment Agency and Suffolk County Council as lead local flood authority content with this provision as drafted? If so, can this be added to the Explanatory Memoranda?</p>	<p>The Applicants are content with this provision as drafted and have no objection to it being added to the Explanatory Memoranda.</p> <p>The SoCG with the Environment Agency confirms agreement on matters relating to the draft DCO. SCC raised a comment in relation to this article in its Deadline 5 submission (REP5-054) and the Applicants have responded to this in <b><i>Applicants' Comments on Suffolk County Council's Deadline 5 Submissions</i></b> (document reference ExA.AS-18.D6.V1) submitted at Deadline 6.</p>
4.20	Arts 17	The Applicants The Environment Agency	<p><b>Authority to survey and investigate the land onshore</b></p> <p>In relation to this provision:</p> <p>a) Is it sufficiently clear in para (1) that the undertaker must remove any equipment etc</p>	<p>The Applicants will update Article 17 of the draft DCO at Deadline 7 to clarify that equipment must be removed following completion of survey or investigation works.</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		Suffolk County Council	<p>brought onto land once the survey or investigation is completed?</p> <p>b) Are the Councils content with the deemed consent provision and timing under para (6)?</p>	
4.21	Arts 20	The Applicants Affected Persons	<p><b>Compulsory acquisition of rights</b></p> <p>Please address the following matter:</p> <p>a) Does para 20(1) need to be made subject to Schs 7 in the same manner as para 20(2) has been?</p>	This would not be appropriate. Article 20(1) refers to land which may be compulsorily acquired. Article 20(2) refers to land over which only rights are to be acquired, thus limiting the powers afforded to the Applicants. This is a clear and appropriate distinction.
4.22	Arts 21	The Applicants Affected Persons	<p><b>Private rights</b></p> <p>This provides that <i>“all private rights or restrictive covenants over land subject to compulsory acquisition under article 18 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 18 (compulsory acquisition of land)...”</i></p> <p>a) Do the Applicants intend to suspend, over-ride or extinguish such rights?</p> <p>b) The distinctions and their justifications are potentially important, as are their implications for Affected Persons. An explanation should make this clear.</p>	<p>If land is acquired or rights or restrictive covenants are imposed upon it then private rights cease to have effect (or are extinguished) to the extent their continuance would be inconsistent with the acquisition of land or exercise of rights by the undertaker or compliance with restrictive covenants.</p> <p>Private rights are suspended pursuant to Article 21(3) for the period of temporary possession of land by the undertaker again in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken.</p>



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				<p>Notice under Article 21(6)(a) is to be given to the party in or to whom the private right in question is vested or belongs.</p> <p>In the Statement of Reasons (section 11.7) (REP1-006) the Applicants further commented:</p> <p><i>“Article 21 provides for the extinguishment of private rights over land subject to compulsory acquisition. The exercise of those powers amounts to an interference with property rights. A person suffering loss due to such interference would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition. The Applicant will take particular regard to those rights of access over which the Order Land crosses and where possible will maintain access at all reasonable times. Where possible the Applicant will reach agreement with the relevant beneficiary of the right or if appropriate serve a prior notice under Article 21(6) of the Order to preserve the right of access. If a right of access is extinguished or overridden, the Applicant will seek to offer a regrant of that right on similar terms to the affected party following the works being completed, with an</i></p>





Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
				<i>appropriate licence for access during the time the works are carried out."</i>
4.23	Arts 22 & 23	The Applicants	<p><b>Application of the Compulsory Purchase (Vesting Declarations) Act 1981 Application of Part 1 of the Compulsory Purchase Act 1965</b></p> <p>There has been no recent change to this drafting.</p> <p>a) The Applicants are asked to confirm that it remains abreast of recent legislative changes relevant to compulsory acquisition.</p>	The Applicants can confirm that Articles 22 and 23 remain current but will consider whether any amendments are required prior to submission of an updated draft DCO at Deadline 7.
4.24	Arts 24	The Applicants Affected Persons	<p><b>Acquisition of subsoil or airspace only</b></p> <p>As currently drafted, this provision enables the acquisition of (relevant parts of) land and rights. It is drafted as being applicable to the land referred to in Arts 20 (compulsory acquisition of rights), where, by definition, only rights are empowered to be acquired.</p> <p>a) Is there a drafting conflict here? Do Arts 24 empower the acquisition of more (i.e. land and rights) than is intended in relation to land subject to Arts 20 (rights alone)?</p> <p>b) If so, the Applicants are requested to amend the drafting to ensure that an effect amounting to the taking of land on Arts 20 land is not provided for.</p>	<p>a) No, Article 24 refers to both Article 18 and Article 20 as may be appropriate and so the Applicants can acquire title to, or rights in respect of, only airspace or subsoil as required for the Projects. This drafting is included so as to limit the impact upon land owners who can thereby retain ownership and use of surface of the land (and subsoil below it to the depth that will not restrict the Projects).</p> <p>b) It is not considered necessary or appropriate to amend the drafting</p> <p>c) Please see comments at point (a) above. The Applicants do not consider that a drafting conflict arises. The drafting applies to both Articles 18 and 20 and allows for the Projects to acquire land or rights to the</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			c) Alternatively, the Applicants are requested to explain why such a change is not required.	minimum extent required rather than the approach having to be all or nothing.
4.25	Arts 26 & 27	The Applicants Affected Persons	<p><b>Temporary uses of land: notice periods for entry</b></p> <p>In Arts 26 (applicable during construction) the notice period for entry to land is 'not less than 14 days'. In Arts 27 (applicable during operation for maintenance works) the notice period is 'not less than 28 days'.</p> <p>a) The Applicants are requested to explain and justify the difference in notice provided.</p> <p>b) 14 days is in principle a very short period of notice of intended entry onto land. Given that 28 days can be accommodated for maintenance works, why can the same period not be provided for construction works?</p> <p>c) In Arts 27(11) (b) the Applicants are requested to check and confirm that the cross reference to Arts 26(3) is now the correct reference.</p>	<p>a &amp; b) The Applicants have developed a good working relationship with landowners and occupiers and whilst a 14 day period is considered to be appropriate, following the hearings, the Applicants can commit to a notice period for entry to land of 28 days and will update the draft DCO at Deadline 7 accordingly.</p> <p>c) The cross reference in Article 27(11)(b) to Article 26(3) is correct.</p>
4.26	Arts 28	The Applicants Any Statutory Undertakers	<p><b>Statutory undertakers</b></p> <p>See Arts 2(1) (definitions of "statutory undertaker").</p> <p>a) Is it clear to whom these provisions are intended to apply?</p>	The Applicants consider that the drafting is clear and aligned with the model provisions.



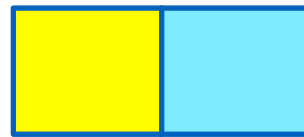
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
4.27	Arts 33	The Applicants East Suffolk Council	<p><b>Operational land for purposes of the 1990 Act</b></p> <p>Would the Applicants agree to prepare and submit an Operational Land Plan for each dDCO, specifically defining the land deemed to be operational land and to be a certified document? This would show the extent of operational land, limited to that reasonably required for operational (as distinct from construction) purposes.</p> <p>a) Is it possible and appropriate to submit that plan during the Examinations?</p> <p>b) If not, how would its submission be secured and by whom should it be approved?</p>	<p>The Applicants have set out in our response to ExA's ExQ2.0.1 (document reference ExA.WQ-2.D6.V1_02) that operational land is defined by legislation. The Applicants consider that it would be restricted to the fenced compounds comprising the onshore substation, National Grid substation and the cable sealing end compounds.</p> <p>a) As the land is defined in statute it is not considered necessary. If a plan was considered necessary then it should not be submitted during Examination. The areas set out in the draft DCO represent the worst case extent. The locations and extent will be finalised through the design process. Any plan should only extend to the as built areas</p> <p>b) Requirement 12 could be expanded to require the submission of plans in respect of the relevant work numbers within 3 months of their completion. It is suggested that ESC would be the appropriate body to approve them.</p>
4.28	Arts 34	East Suffolk Council Suffolk County Council	<p><b>Felling or lopping of trees and removal of hedgerows</b></p>	No response.



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			<p>the Planning Inspectorate's Advice Note (AN) 15 proposes that all affected hedgerows should be identified in a schedule and on a plan.</p> <p>a) In these dDCOs, only the 'important hedgerows' have been identified in the Schedules.</p> <p>b) East Suffolk Council's concerns on this matter [REP5-047] are noted. Do they suggest any changes to the drafting of the Article?</p> <p>c) Are other bodies content that this provision is adequate?</p> <p>See also Schs 11.</p>	
4.29	Arts 35	East Suffolk Council	<p><b>Trees subject to tree preservation orders</b></p> <p>These articles are applicable to and empower extensive works to trees protected after the conclusion of the design process. However, the proposed cut-off date of 25 June 2019 is now some time into the past.</p> <p>a) Is the Council aware of any more recently protected trees in respect of which the powers provided here would not be appropriate and for which a reasonable design accommodation might be expected?</p>	No response.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
4.30	Arts 36	The Applicants East Suffolk Council Suffolk County Council The Marine Management Organisation	<p><b>Certification of plans etc.</b></p> <p>These articles contain an extensive list (to para (a) to para (gg) of documents and their versions.</p> <p>a) The Applicants are requested to ensure that this list remains up to date as the Examinations progress.</p> <p>b) Are any documents missing?</p> <p>c) A number of made DCOs have substituted this approach for a succinctly drafted Article stating that the documents listed in a Schedule must be submitted to the SoS for certification and it was recently used in the Boreas dDCO. This approach enables the documents to be tabulated and for them and their version numbers to be identified with greater ease. The Applicants have committed to taking this approach by Deadline 7 and this will make a significant improvement.</p> <p>See also Schedules – missing provision?</p>	<p>a) The Applicants will continue to ensure that the list of documents to be certified is up to date.</p> <p>b) The Applicants intend to update the list to include documents clarifying or updating matters set out within the Environmental Statement which have been submitted during the course of the Examination.</p> <p>c) The Applicants will include a new Schedule in the draft DCO at Deadline 7 which will list the documents to be certified in a similar format to that set out within the Norfolk Boreas draft DCO.</p>
4.31	Arts 37	The Applicants East Suffolk Council	<p><b>Arbitration</b></p> <p>Arts 37 of the dDCOs are expressed (Arts 37(1) as subject to Art 40 (saving provision for Trinity House) and to the provision that the arbitration provisions do not apply to <i>'any dispute or difference arising out of or in connection with any provision of this Order, unless otherwise provided</i></p>	<p>a) The Applicants consider that it is sufficiently clear that the discharge of requirements and DML conditions are outside the scope of the arbitration provision.</p> <p>Article 37(1) states that <i>"any dispute or difference arising out of or in connection</i></p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		<p>The Marine Management Organisation</p> <p>The Maritime and Coastguard Agency</p> <p>Trinity House</p> <p>Natural England</p> <p>Historic England</p> <p>The Environment Agency</p> <p>Interested Parties / Affected Parties with an interest in arbitration</p>	<p>for...'. Arts 37(2) provide that '[a]ny matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration'.</p> <p>a) Is it sufficiently clear that the discharge of Requirements in Schedule 1 and as provided for in Schs 16 and/ or of Conditions to the DMLs in Schedules 13 or 14 are outside the scope of the arbitration provision?</p> <p>b) Is the Applicants' intention as described in (a) and if not, what is the intended application of arbitration to the discharge of Requirements, the operation of Schs 16 and/ or the discharge of Conditions to the DMLs?</p> <p>c) Is the MMO content that the exception from arbitration provided for it is appropriate and addresses its concerns?</p> <p>d) Is Trinity House content with the proposed saving provision in Arts 40 and that has the effect of excepting it from the arbitration provisions?</p> <p>e) Are local authorities acting as relevant planning authority or highway authority and in related capacities content that the arbitration provisions do not intrude on their powers and</p>	<p>with any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration" and since Article 38 and Schedule 16 apply in respect of the discharge of requirements, it is clear that another mechanism has been provided for and therefore the arbitration provision will not apply.</p> <p>With respect to the discharge of Deemed Marine Licence (DM)L conditions, paragraph (2) of Article 37 states that "[a]ny matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration". This makes it clear that the discharge of DML conditions, which require the approval of the MMO, do not fall within the scope of the arbitration provision.</p> <p>b) See Applicants' response to (a).</p> <p>c) No response.</p> <p>d) No response.</p> <p>e) No response.</p> <p>f) No response.</p> <p>g) The Applicants consider that it is sufficiently clear that determinations of the Secretary of State are not subject to</p>

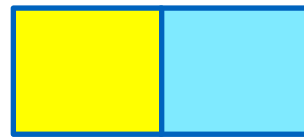


Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>duties in any unexpected or unwarranted manner?</p> <p>f) Are the Environment Agency, Natural England and/ or Historic England content that their roles as advisory and regulatory authorities, as consultees and in the making of relevant expert determinations and authorisations where necessary appropriately responded to in this drafting?</p> <p>g) Is it sufficiently clear that the SoS' own determinations are not subject to arbitration?</p> <p>See also – Schs 15.</p>	<p>arbitration on the basis that paragraph (2) of Article 37 states that “[a]ny matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration”.</p>
4.32	Arts 38	<p>East Suffolk Council</p> <p>Suffolk County Council</p> <p>The Environment Agency</p> <p>Historic England</p> <p>Natural England</p> <p>Ministry of Defence</p>	<p><b>Bodies discharging requirements</b></p> <p>Bodies acting under Arts 38 of the dDCOs and discharging or directing under Requirements including:</p> <ul style="list-style-type: none"> <li>• The relevant planning authority;</li> <li>• The relevant highway authority;</li> <li>• Environment Agency;</li> <li>• Historic England;</li> <li>• Natural England;</li> <li>• Civil Aviation Authority;</li> <li>• Ministry of Defence</li> </ul>	No response.

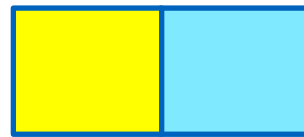


Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		Civil Aviation Authority NATS	<ul style="list-style-type: none"> <li>• NATS</li> <li>• Suffolk County Council (as lead local flood authority);</li> </ul> <p>Are requested to confirm that they are content with the application of Arts 38 and Schs 16.</p> <p>See also – Schs 16.</p>	
4.33	Arts 41	The Crown Estate	<p><b>Crown rights</b></p> <p>Is the Crown Estate satisfied that the drafting of this provision is appropriate?</p>	No response.
4.34	None – missing provisions	The Applicants Affected Persons	<p><b>Protective works</b></p> <p>Earlier drafts of the dDCOs contained an article empowering protective works to buildings. This has been deleted.</p> <p>a) Do any Affected Persons (including additional Affected Persons in relation to the additional land request made at Deadline 1 [REP1-037]) consider that protective works may be required?</p> <p>b) Are the Applicants clear that the applications as amended still do not give rise to any reasonable requirement for the provision and exercise of such a power?</p>	The draft DCO submitted with the Application (and subsequent versions) has not included a provision relating to protective works to buildings. The Applicants do not consider that it is necessary to include such a provision within the draft DCO. The inclusion of additional land within the Applications at Deadline 1 has not altered this position.
5	<b>Schedule 1 – Authorised project</b>			





Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
5.1	Frome pages 30 Pt 1	The Applicants	<p><b>Pt 1: Authorised development Para 1 – the generating stations NSIPs</b></p> <p><i>Works Nos.1</i> secure the status of the authorised developments as NSIPs by providing that the works consist of an offshore wind turbine generating station with a gross electrical output capacity of over 100 MW. They provide for East Anglia ONE North <b>(1)</b> up to 67 wind turbine generators may be constructed and for East Anglia TWO <b>(2)</b> up to 75 wind turbine generators may be constructed. These provisions secure the maximum physical extent of the generating station array developments at sea and describe the upper limit of the Rochdale Envelopes for the proposed developments.</p> <p>The Applicants have been clear (ISHs6) that they do not consider it necessary or precedent in previous made DCOs for there to be additional Works descriptions that secure the development of installed generating capacity over 100 MW.</p> <p>However, to the extent that some Interested Parties have made submissions that in their views, the adverse impacts of the proposed developments could outweigh their benefits, it could be argued that larger installed generating capacities may form a relevant component of greater public benefits. Reference has also been made to the material change process for the East</p>	<p>It is not necessary, or appropriate to specify the capacity of the Projects on the face of the draft DCO. All relevant parameters are specified within the draft DCO and are linked to what has been assessed within the environmental statement. Output capacity is not a relevant parameter and does not require to be specified on the face of the DCO. The approach taken in the <b>draft DCO</b> (REP5-003) reflects that in the very recent Hornsea Three Offshore Wind Farm Order 2020.</p> <p>a) The reference to above 100MW is a reference to the NSIP threshold in the Act not the likely gross electrical capacity of the Projects. On the basis of the evidence presented it is submitted that the balance should be against the likely scale of electrical output. This being one of the positive benefits.</p> <p>b) and c) Noting the position in (a) above, in terms of the Agreements for Lease (AfLs) there is a minimum installed capacity of 600MW for each Project. Any variation to this would need to be approved or agreed in terms of the contract. In the circumstances there is no need for the dDCO to incorporate a figure. Furthermore, evidence has been led which demonstrates that</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>Anglia ONE offshore wind farm post the initial grant of development consent for that project, which has been argued to have resulted in the assessed adverse impact of that development in terms of onshore effects becoming greater (in proportion to a reduced installed generating capacity benefit) than they were at the point of original decision on the DCO. In such circumstances, arguments have been mounted that there may be a threshold for minimum installed generating capacities that might be necessary to be secured in these proposed developments to ensure that a positive balance of benefit could be retained.</p> <p>a) Is it the Applicants' view that the construction of either proposed development at a minimum installed capacity of 101 MW would provide sufficient benefits to outweigh their relevant adverse impacts?</p> <p>b) If there is doubt on this point, please propose drafting which might secure an appropriate threshold of installed generating capacity to address this.</p>	<p>Contracts for Difference (CfD) Auction Rounds have driven projects to maximise grid efficiency in order to achieve the price reductions reported in the White Paper (page 45). This drives the industry to maximise the use of the grid connections. This was explained by Mr Green at Issue Specific hearing (ISH) 4. A lot has been made of the East Anglia ONE reduction however this is an example of the position<sup>1</sup>. It utilised a highly efficient scale of generation of the then available High Voltage Alternating Current (HVAC) grid technology. On this basis any balance should be conducted using the likely capacity figures.</p>

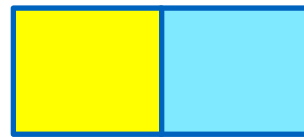
<sup>1</sup> Following the grant of consent of East Anglia ONE in 2014, the Department of Energy and Climate Change (DECC) announced funding for the first allocation round of the new Contract for Difference which was restricted below market expectations, requiring the reconfiguration of that project from 1200MW to up to 750MW capacity to ensure it could compete successfully in the CfD auction.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			c) Are there provisions in the Agreements for Lease (AfLs) for the offshore array areas that secure minimum installed generating capacities? If so, could the equivalent figure be referred to in the dDCOs?	
5.2	Pt 1	The Applicants The Marine Management Organisation Suffolk County Council East Suffolk Council	<p><b>Para 1 – the generating stations NSIPs</b></p> <p>The maximum height of <i>Works Nos. 1</i> (the offshore generating stations) <i>2 and 3</i> (offshore platforms) are not secured here, although it these values have been assessed in the ESs for SLVIA purposes. It would not be normal for them to be secured here, but neither are they secured in the DMLs (see Schs 13 generation assets).</p> <p>a) Is security already provided by another means (if so, please explain and if not please provide a view as to whether it is required);</p> <p>b) If additional drafting is required to address this point, please submit it.</p>	<p>The maximum heights of Work Nos. 1, 2 and 3 are secured in Requirements 2 and 3 and in the Generation DML (Schedule 13) in conditions 1, 3 and 4 and in the Transmission DML (Schedule 14) in conditions 1 and 2.</p> <p>The Applicants do not consider it to be appropriate for heights to be secured within the description of the development in Part 1 of Schedule 1.</p>
5.3	Pt 1	The Applicants	<p><b>Para 1 – the landfall</b></p> <p>In <i>Works Nos. 8</i>, is it the case that all the intended works are 'onshore' (eg landward of MHWS)?</p>	Yes, that is correct.
5.4	Pt 1	The Applicants	<p><b>Para 1 – landscape and drainage works</b></p> <p><i>Works Nos. 33</i> refer to 'landscaping works including bunding and planting together with drainage works, sustainable drainage system</p>	Work No. 33 comprises landscaping works including bunding and planting together with drainage works, sustainable drainage system ponds, surface water management systems, formation of footpaths and access.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		The Environment Agency Suffolk County Council	ponds, surface water management systems, formation of footpaths and access...' Suffolk County Council have suggested subdividing this between a more closely defined set of landscape works and a separate set of surface water drainage infrastructure works. Does the Applicant agree and if not, why not?	The landscaping and drainage are inextricably linked and the Applicants do not consider it to be necessary or appropriate to separate the landscaping works from the drainage works.
5.5	Pt 1	The Applicants	<p><b>Paras 1 &amp; 2 – formation of a new permanent access road</b> from the B1121 north of Kiln Lane to the onshore substation and national grid substation.</p> <p><i>Works Nos. 34</i> forms part of both the generating stations and electric lines NSIPs. The rationale for this approach is clear. However, in relation to matters raised in respect of R38 (Restriction on carrying out grid connection works where consented in another order), there is an argument that drafting should be included to ensure that this access road cannot be constructed a second time if already constructed under one DCO. Is any additional drafting required?</p>	<p>Work No. 34 is part of the grid connection works and therefore requirement 38, which prevents any part of the grid connection works from being constructed under more than one order, would apply to Work No. 34 to prevent it from being constructed more than once.</p> <p>The Applicants will however consider this point further and, if considered necessary and appropriate, the Applicants will include some additional drafting in the next version of the draft DCO to clarify the position.</p>
5.6	Pt 1	The Applicants NG ET NG ESO NG Ventures	<p><b>Para 2 – the electric lines (transmission) NSIP</b></p> <p>Is there an argument that the element of these developments relating to National Grid infrastructure is not only a separate NSIP but is potentially a separate project that should be the subject of a separate DCO? Such an approach might ensure that the effects of a range of</p>	<p>The Applicants do not agree that the National Grid Infrastructure should be the subject of a separate DCO.</p> <p>The National Grid infrastructure is necessary for the Projects to export electricity to the grid and therefore to ensure delivery of the Projects it was considered</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		East Suffolk Council	potential grid connections were appropriately assessed and mitigations secured?	<p>necessary and appropriate to include the National Grid infrastructure within the DCO Applications. Paragraph 4.9.2 of NPS EN-1 states that the Government “<i>envisages that wherever possible, applications for new generating stations and related infrastructure should be contained in a single application...</i>” and this is what the Applicants have sought to do.</p> <p>It is not unusual for developers to consent works required to connect their projects to the national grid. Examples of this approach can be found in the Galloper Wind Farm Order 2013 and very recently in the Norfolk Vanguard Offshore Wind Farm Order 2020. See Section 2.2.3 of the <b>Applicants' Written Summary of Oral Case (ISH6)</b> (REP5-030).</p> <p>The National Grid infrastructure has been fully assessed within the Environmental Statement and including such works within a separate DCO Application would not change the approach taken to the assessment.</p>
5.7	Pt 1	The Applicants NG ET	<p><b>Para 2 – the electric lines (transmission) NSIP</b></p> <p>In order to adequately ensure that relevant design mitigations for the transmission connections substations are provided and endure, permitted</p>	<p>The Applicants have set out their reasons for the retention of permitted development rights in the response to ExQ2.0.1 (document reference ExA.WQ-2.D6.V1_02).</p>

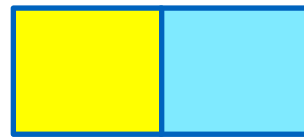


Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		NG ESO NG Ventures East Suffolk Council	development rights applicable to a National Grid substation might be withdrawn: ExQs2.0.1 and 2 refer, as does East Suffolk Council D5 submission on ISHs6 [REP5-047].  a) How might that be provided for in drafting terms in the dDCOs?  b) Is the drafting proposed by East Suffolk Council appropriate?	a) Whilst the Applicants do not consider such a restriction to be appropriate, if such a restriction were placed on the Projects the Applicants consider that it would have to be in an article of the DCO.  b) The Applicants do not agree with the inclusion of the text proposed by ESC for the reasons set out in the Applicants' response to ExQ2.0.1. If the Secretary of State were minded to include such a restriction within the DCO it would need to be more specific and based on removal of permitted development rights in specified circumstances. The text proposed by ESC is lacking in specificity and goes further than is necessary. Furthermore, as currently drafted it would require planning permission to be sought for activities authorised by the DCO which cannot be correct.
5.8	Pt 1	The Applicants	<b>Para 2 – the electric lines (transmission) NSIPs – landscape and drainage and other shared works</b>  Works Nos. 34 (an access road) is shared between the generating stations (para 1) NSIPs and the electric lines (transmission) (para 2) NSIP. On the same principle are elements of other Works also shared and if so should relevant drafting provision be made? Works Nos. 33	a) No, the Applicants do not consider that there should be any other shared works. Work No. 34 has been included as associated development for both NSIPs as it will be required for operational access to the infrastructure at the substation site in respect of both NSIPs.  Work No. 33 will deliver a comprehensive landscaping scheme as set out within the



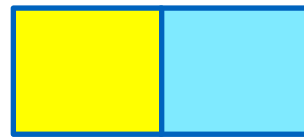
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>appears to be of particular relevance as a candidate for inclusion as shared Works, as Works Nos. 38 (sealing end compounds), 41 (a new National Grid substation) and 34 itself (the access road) require to be landscaped and drained during the operation phase?</p> <p>a) Should there be other shared Works?</p> <p>b) How might these be provided for in drafting terms?</p>	<p><b>Outline Landscape and Ecological Management Strategy (OLEMS)</b> (an updated version has been submitted at Deadline 6, document reference 8.7). This will be made up of different aspects, but delivered in a holistic manner and secured by the requirements of the draft DCO. The Applicants do not consider it necessary for Work No. 33 to be classified as shared works.</p> <p>b) No.</p>
5.9	Pt 1	The Applicants The Marine Management Organisation	<p><b>Para 3 – grid coordinates for development seaward of MHWS</b></p> <p>Please audit the defined points describing the sites of the proposed developments at sea and confirm that the Latitudes and Longitudes in the tables are correct.</p>	The Applicants can confirm that the grid coordinates specified in paragraph 3 of Schedule 1, Part 1 are correct.
5.10	Pt 2	The Applicants	<p><b>Pt 2: Ancillary works</b></p> <p>Is it necessary to provide in this part that it specifically does not authorise any works that constitute development for the purposes of s32 of the 2008 Act?</p>	See the Applicants' response at row 4.1.
5.11	Pt 3 R1	The Applicants	<p><b>Pt 3: Requirements</b></p> <p><b>R1: Time limits</b></p>	a) The Applications were submitted in the Autumn of 2019. At that time it was envisaged that decisions on the projects would have been made toward the end of





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			<p>On application, the dDCOs provided as follows: <i>'The authorised project must commence no later than the expiration of seven years beginning with the date this Order comes into force.'</i> At ISH6 the Applicants submitted and at Deadline 5 the Applicants confirmed its intention to reduce this period to five years. The ExAs understand the justification in summary terms to be that (in the context provided by the Energy White Paper) the Applicants do not envisage requiring a period of seven years to bring these projects to commencement. Nevertheless, these are very large and complex projects and the application of a seven-year commencement has been proposed, justified and approved in made DCOs for equivalent and smaller projects.</p> <p>a) Are the Applicants clear that they will be able to commence within five as distinct from seven years? Please draw attention to risk analysis undertaken around this change.</p> <p>b) If commencement were to be delayed beyond five years, what would the implications be?</p> <p>c) Is there any basis for a suggestion that the reduction represents a means to reduce the possibility/ risk that the Applicants might experience pressures to adapt the onshore transmission connection method or route as part of emerging responses to policy or regulatory changes (BEIS Offshore</p>	<p>2020 or early 2021. In December 2019 a new Government was elected and as part of the queen's speech a commitment was made to increase the deployment of offshore wind with a target of 30GW by 2030. This was a clear signal to the market that there would be an acceleration of opportunity and that future CfD Auction rounds were likely to increase in capacity. As Mr Ovens explained at Issue Specific Hearing 5, it was shortly after that the East Anglia Hub concept was established. There is no point in seeking to accelerate deployment unless the supply chain can match that ambition. This is what the EA Hub has achieved. As part of that process, the Applicants have also reviewed other challenges to early deployment such as the grid connection dates.</p> <p>At the application stage it was anticipated there would have been a year post decision prior to the next CfD Auction Round (AR4). The decision making in respect of the Orders has been delayed due to Covid reasons. There will now no longer be that gap. In essence the delay has used up one of the original commencement years. The Government has continued to expand the support to the level of deployment and</p>





Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>Transmission Review and/or Energy White Paper)?</p> <p>d) If so, is there any merit in an alternative approach in which additional adaptation capacity is designed in to the onshore/transmission connection provisions of the dDCOs?</p> <p>See also missing provisions – adaptation (above)</p>	<p>increased the offshore targets to 40GW by 2030. This was restated in the Energy White Paper. The Energy White Paper also sets out a very clear direction of travel for the acceleration of deployment and this is reflected in the statements made in the document on AR4. The development of the East Anglia Hub and scale of commitment by Government has increased the confidence that the projects will be competitive in future CfD Auctions if consented. If the Projects are consented in the current determination timetable, the Projects can be bid into AR4 and the Applicants are confident that they can be commenced within the 5 year period.</p> <p>b) There may be a need to apply for a change to the DCO.</p> <p>c) The Applicants can confirm that there is no basis for the suggestion. The Applicants have set out the basis of the reasoning above. The key decisions that facilitated the ability to bring forward the potential delivery of the Projects were made at the start of 2020.</p> <p>d) see answer to 1.1 above.</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
5.12	Pt 3 R12	The Applicants	<p><b>R12: Detailed design parameters onshore</b></p> <p>Please comment on the following matters:</p> <p>a) The Applicants are asked to produce a form of drafting requiring the details of the layout, scale and external appearance of the onshore substations (for works relating to (1), (2) and the National Grid substation works) submitted to East Suffolk Council for approval to be in accordance with the Substations Design Principles Statement [REP4-029].</p> <p>b) The installation of cables comprised within Works Nos.6 is subject to a provision that they must be installed using horizontal directional drilling. Should that provision refer to 'cables and ducts'?</p> <p>c) Can greater clarity around the operation of this requirement be delivered through its subdivision into two or more requirements?</p>	<p>a) The draft DCO submitted at Deadline 5 requires details of the layout, scale and external appearance of the onshore substation, national grid substation and cable sealing end compounds (which must accord with the substations design principles statement) to be submitted to and approved by the relevant planning authority within paragraphs (1), (2), (6) and (19) of Requirement 12.</p> <p>b) Yes, the requirement should also refer to ducts and this will be updated in the next version of the draft DCO.</p> <p>c) The Applicants do not agree that Requirement 12 should be split into multiple requirements (and this is consistent with East Suffolk Council's position on page 9 of <b>East Suffolk Council's Summary of Oral Case - Issue Specific Hearing 6</b> (REP5-047)). The Applicants do however intend to restructure the requirement in the draft DCO at Deadline 7 so that it is in a more logical order and is therefore easier to follow.</p>
5.13	Pt 3 R13	The Applicants East Suffolk Council	<p><b>R13: Landfall construction method statement</b></p> <p>Please address the following matters:</p> <p>a) Para 2 requires the method statement to be 'implemented as approved', but no monitoring</p>	<p>a) The Applicants have committed to undertake periodic monitoring and/or reporting at the landfall. This commitment will be secured within updated text in Requirement 13 of the draft DCO which has</p>



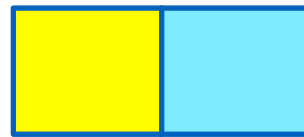
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		Natural England EDF Energy Nuclear Generation Ltd (Sizewell B) (SZB)	<p>process is defined. Should there be a monitoring provision and if so, how could it be drafted? An indicative form of drafting is set out below.</p> <p>b) Which Works should be within scope? Are elements of Works Nos.5 relevant albeit that they are seaward of MHWS?</p> <p>c) Should Natural England be a consultee?</p> <p>d) EDF Energy Nuclear Generation Ltd (Sizewell B) (SZB) has requested to become a consultee on the landfall construction method statement submissions relating to Works Nos. 6.</p> <p>e) Is the Applicant content with these proposals and if not, why not?</p> <p>(1) No part of Works No. 6 or 8 may commence until a method statement for the construction of Works 6 or 8 has been submitted to and approved in writing by the relevant planning authority [in consultation with Natural England and EDF Energy {SZB}].</p> <p>(2) The method statement referred to in paragraph (1) must include measures for long horizontal directional drilling below the beach and cliff base at the landfall as well as measures for ongoing inspection of Works No. 6 or 8 and reporting of results to the relevant planning</p>	<p>been agreed with East Suffolk Council. This will be reflected in the draft DCO submitted at Deadline 7.</p> <p>The Applicants have also provided details of the proposed monitoring within the <b>Outline Landfall Monitoring Plan</b> which has been included as an Appendix to the <b>Outline Landfall Construction Method Statement</b> submitted at Deadline 6 (document reference ExA.AS-2.D6.V2). The Applicants will update Requirement 13 at Deadline 7 to secure this commitment.</p> <p>b) Work Nos. 6 and 8 are within the scope of the proposed landfall monitoring. Work No. 5 is not relevant as this is offshore.</p> <p>c) The Applicants will consult with Natural England in the preparation of the final Landfall Construction Method Statement and this commitment is secured within the updated <b>Outline Landfall Construction Method Statement</b> submitted at Deadline 6 (document reference ExA.AS-2.D6.V2</p> <p>d) The Applicants have agreed to consult with Sizewell B during the preparation of the final Landfall Construction Method Statement and this will be secured within protective provisions for the benefit of EDF Energy Nuclear Generation Limited. A</p>



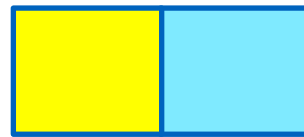
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>authority during the operation of the authorised project.</p> <p>(3) In the event that inspections indicate that as a result of the rate and extent of landfall erosion Works No. 6 or 8 could become exposed during the operation of the authorised project the undertaker must, as soon as practicable, submit proposals in writing for remedial measures to protect Works No. 6 or 8, together with a timetable for their implementation, to the relevant planning authority for their approval, [in consultation with Natural England].</p> <p>(4) The method statement and any proposals for remedial measures must be implemented as approved.</p>	<p>commitment to consult with Sizewell B has also been included in the updated <b>Outline Landfall Construction Method Statement</b> submitted at Deadline 6 (document reference ExA.AS-2.D6.V2</p> <p>e) The Applicants have produced alternative drafting to secure monitoring of the landfall which has been agreed with East Suffolk Council and this will be included within the draft DCO at Deadline 7. The Applicants have also produced an Outline Landfall Monitoring Plan which has been included as an Appendix to the <b>Outline Landfall Construction Method Statement</b> submitted at Deadline 6 (document reference ExA.AS-2.D6.V2</p>
5.14	Pt 3 R14	The Applicants East Suffolk Council	<p><b>R14: Provision of landscaping</b></p> <p>The proposal to undertake 'pre-planting' is potentially valuable as a form of mitigation, enabling the part establishment of some landscape enclosure before commencement. However, it also serves to reduce the level of accountability around the approval of landscape schemes. Is there a form of drafting that could enable reference of pre-commencement landscape works to the relevant planning authority and so address this concern?</p>	<p>The Applicants intend to include a new requirement in the draft DCO at Deadline 7 which requires the approval of an onshore preparation works management plan and the intention is for early planting to be included within the scope of this plan. An outline of the information that will be included within the onshore preparation works management plan has been included in Appendix 1 of the updated <b>Outline Code of Construction Practice</b> submitted at Deadline 6.</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
5.15	Pt 3 R15	The Applicants East Suffolk Council	<p><b>R15: Implementation and maintenance of landscaping</b></p> <p>How might drafting securing an aftercare/ replacement period for the landscaping for Works Nos. 33 in accordance with the time period for adaptive/dynamic maintenance and aftercare set out in the OLEMS [REP3-030, Section 4.2] be formed? How might this address the suspension of maintenance?</p> <p>Is a ten-year replacement period for failed woodland planting required for Works Nos. 24 and 29?</p>	<p>The Applicants do not consider it necessary to make reference to adaptive management within the requirement. Details of the adaptive management and subsequent maintenance are set out within the <b>Outline Landscape and Ecological Management Strategy</b> ((an update version has been submitted at Deadline 6 (document reference 8.7) and the final Landscape Management Plan must accord with OLEMS. The approved Landscape Management Plan must be implemented as approved and so any longer period for replacement planting or adaptive management commitments set out within the OLEMS are secured.</p> <p>The Applicants updated the draft DCO at Deadline 5 to make provision for a ten year replacement period in respect of Work No. 24. The Applicants do not consider it necessary for the ten year period to apply to Work No. 29 as the nature of mitigation in this area is yet to be established. It is likely for instance that this area will be a mix of grassland and scrub with the incorporation of species specific ecological mitigation. It is therefore inappropriate to include this area as part of the ten year replacement period.</p>

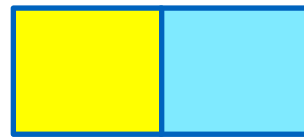


Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
				The Applicants can however commit that woodland planted within Work No. 19 associated with the crossing of the Hundred River will be subject to the ten year replacement period.
5.16	Pt 3 R16	The Applicants Suffolk County Council	<p><b>R16: Highway accesses</b></p> <p>Please comment on the following matters:</p> <p>a) Why is the term 'begin' used in this provision and not the defined term 'commence'? (See Arts 2(1).)</p> <p>b) SZB has requested to become a consultee on highway access written details submissions relating to Works Nos. 10, 11 and 15. Is the Applicant content?</p>	<p>a) The use of the term "begin" is intentional to ensure that onshore preparation works are not excluded, as would be the case if the term "commence" was used.</p> <p>b) The Applicants have agreed to consult with Sizewell B during the preparation of the access management plan, to the extent that it relates to Work Nos. 10, 11 and 15 and this will be secured within protective provisions for the benefit of EDF Energy Nuclear Generation Limited. The Applicants therefore do not consider it necessary for reference to consultation with Sizewell B to be included within the requirement.</p>
5.17	Pt 3 R17	The Applicants East Suffolk Council	<p><b>R17: Fencing and other means of enclosure</b></p> <p>Similar issues arise to those in relation to R14. Is there a form of drafting that could enable reference of pre-commencement landscape works to the relevant planning authority and so address this concern?</p>	The Applicants intend to include a new requirement in the draft DCO at Deadline 7 which requires the approval of an onshore preparation works management plan and the intention is for fencing and other means of enclosure to be included within the scope of this plan. An outline of the information that will be included within the onshore preparation works management plan has



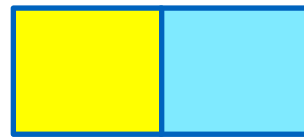
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
				been included in Appendix 1 of the updated <b>Outline Code of Construction Practice</b> submitted at Deadline 6.
5.18	Pt 3 R19	The Applicants Suffolk County Council	<b>R19: Archaeology</b> Suffolk County Council [REP5-053] has suggested the insertion of the words “and the outline written scheme of investigation (onshore))” into this requirement, prior to ‘in respect of those works’. Is the Applicant content?	The Applicants will update Requirement 19 at Deadline 7 to include reference to the Outline Written Scheme of Investigation (WSI) (Onshore Archaeology).
5.19	Pt 3 R21	The Applicants East Suffolk Council	<b>R21: Ecological management plan</b> Pre-construction surveys have been added to the first para of the requirement (at Deadline 5). They have not been added to the second para, which is what the ExAs had understood East Suffolk Council had requested.  a) Would the Applicants be content to add a similar provision ('reflecting the pre-construction survey results') to para (2)?	The Applicants do not agree that reference to pre-construction surveys should be included within Requirement 21(2). This requirement must be discharged prior to onshore preparation works being undertaken and the definition of onshore preparation works includes environmental surveys and so it would be counter-intuitive to refer to pre-construction surveys here and a general reference to surveys is considered appropriate.  The Applicants will however make a minor amendment to paragraph (2) in the next version of the draft DCO so that the reference to survey results is more general and not necessarily limited to the survey results included in the environmental statement.





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5.20	Pt 3 R22	The Applicants East Suffolk Council EDF (NNB Generation Co Ltd) (SZC) Sizewell A & B Sites Stakeholder Group	<p><b>R22: Code of construction practice</b></p> <p>Are there any parts or elements of the code of construction practice that should apply to pre-commencement works? If so, which works should they apply to and how can drafting require their preparation, submission, approval and application to these works?</p> <p>a) SZB has requested to become a consultee on the code of construction practice in respect of the Sizewell Gap construction method statement. Is the Applicant content?</p> <p>b) Should the same standing be accorded to bodies responsible for decommissioning and new nuclear development (SZC) at Sizewell?</p>	<p>The Applicants intend to include a new requirement in the draft DCO at Deadline 7 which requires the approval of an onshore preparation works management plan which will ensure that relevant onshore preparation works are subject to approval. An outline of the information that will be included within the onshore preparation works management plan has been included in Appendix 1 of the updated <b>Outline Code of Construction Practice</b> submitted at Deadline 6.</p> <p>a) The Applicants have agreed to consult with Sizewell B during the preparation of the Sizewell Gap construction method statement and this will be secured within protective provisions for the benefit of EDF Energy Nuclear Generation Limited. The Applicants therefore do not consider it necessary for reference to consultation with Sizewell B to be included within the requirement.</p> <p>b) The Applicants have agreed to consult with Sizewell C during the preparation of the Sizewell Gap construction method statement to the extent that it relates to Work No. 15, and this will be secured within protective provisions for the benefit of NNB Generation Company (SZC) Limited. The</p>

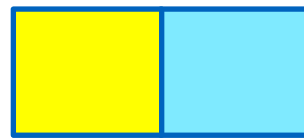




Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
				Applicants therefore do not consider it necessary for reference to consultation with Sizewell C to be included within the requirement. The Applicants do not consider it necessary for bodies responsible for decommissioning at Sizewell to be named within the requirement.
5.21	Pt 3 Rs23 & 24	The Applicants East Suffolk Council NGESO NGET NG Ventures	<b>R23 &amp; 24: Hours</b> Please comment on the following matters: a) Is there any feasible means of limiting or controlling the classes of essential activities which (following discussion at ISHs6) remain as open classes? b) Does the Applicant have any further observations to make on proposals for further hours limitations raised by Interested Parties at ISHs6? Proposals made included reducing hours from 0700-1900 to potentially 0800-1800 (and 0800-1300 on Saturdays) and also to the possibility of tourism/ festival-related non-working period in the summer months.	(a) The term 'essential activities' relates to such works that, if not completed within a particular sequence or within a particular time frame, would be of detriment to the safety or construction of the authorised projects. The Applicants have provided some additional text within the <b>Outline CoCP</b> submitted at Deadline 6 to provide more clarity on what would be considered essential activities.  The Applicants would however emphasise that other than in an emergency, any works which the Applicants seek to undertake outside the normal construction hours <b>must be approved in advance</b> by the relevant planning authority. The Applicants therefore consider there to be appropriate controls in place.  (b) See row 20 of Table 5 in Section 1.6 of the <b>Applicants' Responses to Hearing</b>



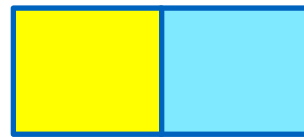
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				<b>Action Points (ISH3, ISH4, ISH5, OFH6 and ISH6)</b> [REP5-026].
5.22	Pt 3 R23 & 24	The Applicants East Suffolk Council NG ESO NG ET NG Ventures	<p><b>R26: Control of Noise during Operational Phase</b></p> <p><b>R27: Control of noise during operational phase cumulatively with (1) and (2)</b></p> <p>The Applicants are requested to clarify whether drafting securing an additional monitoring location is proposed to be added to R26 [REP4-026][REP4-043], or whether the Deadline 5 changes are viewed as sufficient.</p> <p>East Suffolk Council has suggested a 'considerably lower' operational noise rating level (LAr) should be secured in both of these requirements [REP5-047]. What do they consider the value(s) should be and why?</p> <p>Is it appropriate and if so, how might the National Grid infrastructure be included within the final agreed cumulative operational noise rating level in R27?</p>	<p>In the draft DCO submitted at Deadline 5, Requirements 26 and 27 were updated to include an additional noise sensitive location as requested by East Suffolk Council. The Applicants therefore consider the Deadline 5 changes to be sufficient in this regard.</p> <p>The Applicants consider the current noise limits specified within the draft DCO to be appropriate and do not consider a lower operational noise rating level to be necessary or justified.</p> <p>Whilst the Applicants consider that it is unnecessary to include a noise limit for the National Grid substation, discussions are continuing with East Suffolk Council on this matter.</p>
5.23	Pt 3 R28	The Applicants EDF Energy (SZB) (SZC) Sizewell A & B Sites	<p><b>R28: Traffic</b></p> <p>SZB has requested to become a consultee on the construction traffic management plan in respect of Works Nos. 10, 11 and 15. Should the same standing be accorded to bodies responsible for decommissioning and for new nuclear</p>	<p>The Applicants have agreed to consult with Sizewell B during the preparation of the construction traffic management plan, to the extent that it relates to Work Nos. 10 or 15, and this will be secured within protective provisions for the benefit of EDF Energy Nuclear Generation Limited. The Applicants</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		Stakeholder Group	development (SZC) at Sizewell? Is the Applicant content?	<p>therefore do not consider it necessary for reference to consultation with Sizewell B to be included within the requirement.</p> <p>The Applicants have agreed to consult with Sizewell C during the formulation of the proposed method of working and timing of execution of works within the area of Work No. 35 and Work No. 36 and this will be secured within protective provisions for the benefit of NNB Generation Company (SZC) Limited. The Applicants therefore do not consider it necessary for reference to consultation with Sizewell C to be included within the requirement.</p> <p>The Applicants do not consider it necessary for bodies responsible for decommissioning at Sizewell to be named within the requirement.</p>
5.24	Pt 3 R30	East Suffolk Council	<p><b>R30: Onshore decommissioning</b></p> <p>Would it assist the relevant planning authority to be notified of the relevant date on which the permanent cessation of commercial operation of the transmission and/or grid connection works occurs, for the purposes of defining more clearly and certainly when the decommissioning plans under R30(1) and (2) must be provided? Should that notification be secured?</p>	No response.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
5.25	Pt 3 R34	The Applicants Ministry of Defence	<p><b>R34: Ministry of Defence surveillance operations</b></p> <p>Technical abbreviations 'RRH' for the term 'remote radar head' and 'RMS' for radar mitigation scheme are included in drafting, but the full terms to which they relate are not widely used in the dDCOs and are also set out in full in the relevant provision. The abbreviations appear superfluous. Can they be removed?</p>	The Applicants have discussed this amendment with the MoD and have agreed to update this requirement at Deadline 7 to remove reference to the two abbreviations that are not used within the requirement.
5.26	Pt 3 R35	The Applicants NATS	<p><b>R35: Cromer Primary Surveillance Radar</b></p> <p>See the general comment on company names above and ensure that the drafting for NATS is correct. The intention in referring to a 'successor body' appears clear, but the drafting should be checked.</p> <p>The wording of this Requirement differs from that in the latest Draft SoCG [REP1-079]. Please confirm the latest situation relating to this requirement</p>	<p>The Applicants can confirm that the company name for NATS as it appears in the draft DCO is correct.</p> <p>The wording of Requirement 35 is still under review and is subject to agreement between the Applicants and NATS.</p> <p>NATS have advised that agreement in respect of the wording of the Requirement will be subject to conclusion of the commercial agreement which is still ongoing. The Applicants will update the ExA on progress at Deadline 7.</p>
5.27	Pt 3 R37	East Suffolk Council	<p><b>R37: Decommissioning of relevant landfill works</b></p> <p>Would it assist the relevant planning authority to be notified of the relevant date on which the landfill works construction was completed, for the</p>	No response.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>purposes of defining more clearly and certainly when the report under R37(1) is to be provided? Should that notification be secured?</p>	
5.28	Pt 3 R38	The Applicants	<p><b>R38: Restriction on carrying out grid connection works where consented in another order</b></p> <p>Are there any circumstances in relation to works other than 'grid connection works' where there is scope for commencement under 'another Order' that requires an equivalent restriction on commencement, if commencement has already occurred under another Order?</p>	No.
5.29	Pt 3 R41	The Applicants The Environment Agency Suffolk County Council East Suffolk Council	<p><b>R41: Operational drainage management plan</b></p> <p>Would the provision be improved by the following?</p> <p>a) In para (1) drafting providing that '[t]he operational drainage plan must include a timetable for implementation'; and</p> <p>b) In para (2) that '[t]he operational drainage management plan must be implemented and maintained as approved'.</p> <p>c) Having this requirement secure and cross-refer to a newly defined Work consisting of all surface water drainage infrastructure (as suggested by Suffolk County Council).</p>	<p>a) The <b>Outline Operational Drainage Management Plan</b> (document reference ExA.AS-1.D6.V3) has been updated at Deadline 6 to require a timetable for implementation to be included within the final plan and therefore the Applicants do not consider it necessary to update the requirement itself since the final plan must accord with the Outline Operational Drainage Management Plan.</p> <p>b) At Deadline 5, the Applicants updated paragraph (1) to require the Operational Drainage Management Plan to include provision for the maintenance of measures identified. The final plan must therefore</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			Is Suffolk County Council content that East Suffolk Council as the relevant planning authority should lead on discharge of this required (in consultation with Suffolk County Council and the Environment Agency) to ensure coordinated input on subject matters with a strong bearing overall on design and appearance?	<p>include details of maintenance measures. Paragraph (2) requires the plan to be implemented as approved. This means that the maintenance measures set out within the plan must be implemented as approved. It is therefore not necessary to refer to maintenance within paragraph (2) as this is already secured through the current drafting of paragraphs (1) and (2).</p> <p>c) For the reasons set out at row 5.4, the Applicants do not consider it to be appropriate for a newly defined Work No. consisting of drainage infrastructure only to be included within the draft DCO and therefore no cross reference is necessary within this requirement.</p>
5.30	Pt 3 None – missing requirement	The Applicants Natural England	<p><b>Missing Requirement – Ecosystem Services for Sandlings SPA</b></p> <p>Natural England have sought a requirement to ensure that proposed SPA mitigation measures in the form of planting must be in functioning condition/ providing ecosystem services as nesting habitat, before works can commence within the boundary of the SPA.</p> <p>a) The Applicants are requested to work with Natural England to frame an operable draft requirement by Deadline 7.</p>	<p>The Applicants do not consider it to be necessary or appropriate for a requirement to be added which prevents construction of the Projects until the proposed SPA mitigation measures (Work No. 12A) must be in functioning condition. The functionality of the habitat is outside the Applicants control as in reality, the habitat could be prepared to an optimum standard, but avian species simply chose not to use the area prior to construction.</p>

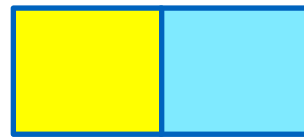


Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			b) If agreement cannot be reached, alternative drafting should be submitted together with reasons for the differences.	The Applicants consider that it is more productive to ensure that the final SPA crossing method statement secures the delivery of a well-planned, well implemented mitigation area. The mitigation area will comprise primarily of the management of scrub and hedgerows (as opposed to planting of new shrubs/scrub). The final SPA crossing method statement will require to be approved by the relevant planning authority in consultation with the relevant statutory nature conservation body.
5.31	Pt 3 None – missing requirement	The Applicants Natural England	<b>Missing Requirement – Security for 'Without Prejudice' HRA Compensation Measures</b>  The ExAs acknowledge ongoing work between the Applicants and Natural England on this point, with possible amended drafting emerging at <b>Deadline 6</b> . They are requested to advise the ExAs on the drafting that might be required to secure these measures.	See Applicants' response to question 2.2.9 within the <b>Applicants' Responses to WQ2 Volume 2 2.0 Overarching, General and Cross-topic Questions (document reference ExA.WQ-2.D6.V1_02)</b> .
5.32	Pt 3 None – missing requirement	The Applicants Suffolk County Council	<b>Security for Memoranda of Understanding (MoUs)</b>  Suffolk County Council [REP5-058] although not agreeing necessarily that formal security is required, has proposed a form of words to secure proposed MoUs between the Councils and the Applicants on skills, education and economic development through a new requirement. The	The Applicants understand that SCC is "of the firm view that the MoU, for it to work most effectively, should sit outside of the DCO" (see <b>Comments of Suffolk County Council Socio-Economics</b> [REP5-058] and the Applicants agree with this position (see section 3.5.2.13 of the <b>Written</b>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>proposed wording is reproduced below. Please provide your views on it.</p> <p>See also Obligations and Agreements below.</p> <p>The development shall not commence until a Memorandum of Understanding (MoU) has been agreed between the Applicant, Suffolk County Council, and East Suffolk Council. The MoU shall address the arrangements for securing the dissemination of skills and the integration of the supply chain into the local economy, including working to a shared set of objectives, and shall include measures for the periodic monitoring and review of those arrangements. The development shall be undertaken in accordance with the agreed MoU (including any review thereof).</p>	<p><b>Summary of Oral Case (ISH6)</b> [REP5-030])</p> <p>Should the ExA not be content with the approach endorsed by the Applicants and SCC, the Applicants consider that the wording provided at paragraph 110 of their <b>Written Summary of Oral Case (ISH6)</b> (REP5-030) would be preferred.</p> <p>The Applicants do not agree with the wording proposed by SCC. The MoU is framed in the context of co-operation and flexibility. A requirement needs to be formulated in clear and precise terms. Whilst the document wording might be the same, the content would have to differ. It would also have to be project specific rather than encompassing the whole East Anglia Hub, The Applicants' supply chain engagement has been intensified through the co-ordinated hub approach.</p>
<b>6</b>	<b>Schedule 2 – Streets subject to street work</b>			
<b>6.1</b>	From pages 49	Suffolk County Council East Suffolk Council	<p><b>Streets subject to street works</b></p> <p>Please confirm that the streets subject to street works are in correct locations, correctly described and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>	<p>The Applicants can confirm that Schedule 2 is correct and that no amendments need to be made at this stage.</p>





Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
<b>7</b>	<b>Schedule 3 – Public rights of way to be temporarily stopped up</b>			
7.1	From Pages 52	Suffolk County Council East Suffolk Council	<p><b>Public rights of way, extent of temporary stopping up and substituted temporary public rights of way</b></p> <p>Please confirm that the public rights of way, the extent of the proposed temporary stopping up and any substituted temporary public rights of way are in correct locations, correctly described and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>	The Applicants can confirm that Schedule 3 is correct and that no amendments need to be made at this stage.
<b>8</b>	<b>Schedule 4 – Footpaths to be stopped up</b>			
8.1	From Pages 66	Suffolk County Council East Suffolk Council	<p><b>Footpaths, extent of stopping up and substituted footpaths</b></p> <p>Please confirm that the footpaths, the extent of the proposed stopping up and any substituted footpaths are in correct locations, correctly described and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>	The Applicants can confirm that Schedule 4 is correct and that no amendments need to be made at this stage.
<b>9</b>	<b>Schedule 5 – Streets to be temporarily stopped up</b>			
9.1	From Pages 66	Suffolk County Council East Suffolk Council	<p><b>Streets and extent of temporary stopping up</b></p> <p>Please confirm that the streets and the extent of the proposed stopping up are in correct locations, correctly described and give rise to no other</p>	The Applicants can confirm that Schedule 5 is correct and that no amendments need to be made at this stage.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			matters. Alternatively, submit any final proposed revisions or corrections.	
<b>10</b>	<b>Schedule 6 – Access to works</b>			
<b>10.1</b>	From Pages 66	Suffolk County Council East Suffolk Council	<b>Descriptions of Accesses</b> Please confirm that proposed vehicular accesses are in correct locations, correctly described and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.	The Applicants can confirm that Schedule 6 is correct and that no amendments need to be made at this stage.
<b>11</b>	<b>Schedule 7 – Land in which only new rights etc. may be acquired</b>			
<b>11.1</b>	From Pages 67	The Applicants Affected Persons	<b>Extent and description of rights</b> Please address the following matters: a) Is the drafting of individual rights in the Schs sufficiently precise? b) Are all those rights listed for each plot number necessary for the individual plots in question? Provision and justification for land in which only new rights etc. may be acquired continues to be examined orally at CAHs 2 & 3 as necessary and further written questions may be raised at ExQs3 if required.	a) and b) The individual rights drafted in Schedule 7 primarily relate to the onshore cable. The Applicants have identified the rights required for the different activities involved in installation, operation and maintenance of the cable and have taken an approach of being very descriptive in drafting these. Each plot was considered in isolation and whether the rights identified should apply to that plot.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
<b>12</b>	<b>Schedule 8 – Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictions</b>			
<b>12.1</b>	From Pages 88		<p><b>Other matters</b></p> <p>Provision and justification for the modification of compensation and compulsory purchase enactments continues to be examined orally at CAHs 2 &amp; 3 as necessary and further written questions may be raised at ExQs3 if required.</p>	No response.
<b>12.2</b>		The Applicants	<p><b>Land Compensation Act 1961 (“the 1961 Act”)</b></p> <p>There are multiple references in Articles to the availability of compensation ‘to be determined, in case of dispute, under Part 1 of the 1961 Act’. That Part in principle applies to compulsory acquisition but not to the temporary possession, extinction of rights or use of land (TP). Where articles relate to compensation for what amounts to TP and invoke the 1961 Act procedure, is it necessary for these Schs (or for other drafting) to modify the application of Part 1 of the 1961 Act, placing beyond doubt its availability to persons making claims in relation to Articles providing TP powers?</p>	<p>It is not considered appropriate to modify the compensation provisions under Part 1 of the 1961 Act or to amend the Articles or other drafting of the dDCOs to modify the application of the 1961 Act.</p> <p>Part 1 of the 1961 Act gives power to the Upper Tribunal to determine the compensation payable in respect of any compulsory acquisition of land. The 1961 Act defines “land” as including any interest or right in or over land. The provisions of Articles 26 and 27 grant power to the Applicants to take temporary possession of land without further need to reach agreement with the owner or occupier and as such the Applicants are effectively acquiring such interest and rights in and over land compulsorily. It is therefore appropriate to refer any dispute over</p>



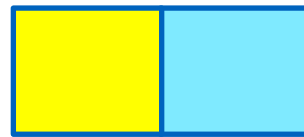
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
				compensation payable to the Upper Tribunal as this drafting provides.
12.3		The Applicants	<p><b>Additional Drafting – Inter-relationships between the dDCOs on CA and TP</b></p> <p>In circumstances where CA and/or TP powers have been exercised to the benefit of the undertaker under one Order, but the effect of that is to remove the need for the beneficiary of the second Order to exercise the same powers, how is the falling-away of the powers in the second Order provided for in the dDCOs.</p> <p>a) Is additional drafting required (noting that it may not be in these Schs) or, if not</p> <p>b) How is the issue provided for?</p> <p>See also Articles empowering CA and TP</p>	The Applicants do not consider it necessary to include “falling away” provisions within the dDCOs. It is not standard to include such provisions within DCOs and the compulsory acquisition provisions within the dDCOs (which are based on the Model Provisions and existing precedent) are limited in terms of the land and rights that can be acquired. The final engineering solutions will be determined post-consent during the detailed design phase, and flexibility is required to ensure the most appropriate solution can be taken forward at that time. In the event that land is found not to be required, compulsory acquisition powers will not be exercised in respect of that land as the compulsory acquisition powers contained within Part 5 of the dDCOs only extend to land or rights that are required for the Project.
13	<b>Schedule 9 – Land of which temporary possession may be taken</b>			
13.1	From Pages 92		<p><b>No matters</b></p> <p>Provision and justification for temporary possession of land continues to be examined orally at CAHs 2 &amp; 3 as necessary and further</p>	No response



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			written questions may be raised at ExQs3 if required.	
13.2	From Pages 93	The Applicants Beneficiaries of Proposed Protective Provisions	<p><b>Beneficiary Positions on Protective Provisions</b></p> <p>The Applicant is requested to provide a table at <b>Deadline 7</b> identifying whether the beneficiaries of the proposed protective provisions support the provisions as drafted, supported by evidence (correspondence from the proposed beneficiaries).</p> <p>a) If any provisions are un-agreed at Deadline 7, this should be explained, and the reasons made clear by the Applicants and the relevant prospective beneficiary.</p> <p>b) Prospective beneficiaries seeking additional or alternative provisions are requested to provide these and their reasons for them, no later than Deadline 6.</p>	<p>a) Noted.</p> <p>b) No response.</p>
13.3	Part 5 Para 2	The Applicants	<p><b>Protection for East Anglia TWO Ltd</b></p> <p>Please review the schedule specific definitions. There is apparent over-lap with general definitions, and it is not clear that this is required. Please attempt to harmonise with general definitions in Arts 2(1) to the maximum extent feasible.</p>	The Applicants will remove the definition of "East Anglia TWO Order" from Part 5 of Schedule 10 given that this is defined in Article 2 of the Order. All other definitions are considered necessary.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
13.4	Part 5 Para 2	The Applicants	<p><b>Protection for East Anglia ONE North Ltd</b></p> <p>Please review the schedule specific definitions. There is apparent over-lap with general definitions, and it is not clear that this is required. Please attempt to harmonise with general definitions in Arts 2(1) to the maximum extent feasible.</p>	<p>The Applicants will remove the definition of "East Anglia ONE North Order" from Part 5 of Schedule 10 given that this is defined in Article 2 of the Order. All other definitions are considered necessary.</p>
13.5	Matters not provided for	<p>The Applicants</p> <p>Nuclear power station operators and developers at Sizewell (Sizewell A nuclear power station 'SZA', Sizewell B nuclear power station 'SZB', Sizewell C proposed new nuclear power station 'SZC')</p>	<p><b>Sizewell Protective Provisions</b></p> <p>A request for protective provisions was heard orally at ISHs6 and has now been supported by drafting for a new protective provision from EDF Energy Nuclear Generation Limited ("NGL"). NGL is the owner and operator of the nearby Sizewell B nuclear power station ("SZB") [REP5-068].</p> <p>a) The Applicants' comments are sought on SZB's drafting.</p> <p>b) If the Applicants do not agree to include any protective provisions for SZB, it is asked to provide reasons.</p> <p>c) If the Applicants agree with the need for protective provisions for SZB but propose drafting changes to the submitted drafts by SZB, these changes should be submitted with reasons for them set out.</p> <p>d) The Applicants and other nuclear operators/ developers (SZA and/ or SZC) are asked whether</p>	<p>The Applicants have continued to engage with Sizewell B and protective provisions are substantially agreed, subject to the conclusion of a side agreement which is currently being negotiated. It is hoped that the Applicants will be in a position to include an agreed set of protective provisions within the draft DCO at Deadline 7.</p> <p>The Applicants have engaged with Sizewell C and protective provisions are substantially agreed, subject to the conclusion of a side agreement which is currently being negotiated. It is hoped that the Applicants will be in a position to include an agreed set of protective provisions within the draft DCO at Deadline 7.</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			there is any outstanding need for additional protective provisions for Sizewell operations or development. If so, drafts should be provided, with reasons for these.	
<b>14</b>	<b>Schedule 11 - Hedgerows</b>			
<b>14.1</b>	From Pages 118	The Applicants East Suffolk Council	<p><b>Pt 1: removal of important hedgerows</b></p> <p>Please respond to the following matters:</p> <p>a) Is it sufficient that only 'important hedgerows' are identified?</p> <p>b) Is any provision required for other hedgerows in the Orders lands?</p> <p>c) Please confirm that proposed hedgerow removals to be carried out are in the correct locations, as assessed in the Environmental Statements, and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p> <p>The Applicants are additionally asked to clarify the apparent conflict between documents providing for the same hedgerows being subject to removal [REP3-011], [REP3-030] and crossed with reduced width [REP3-010]. Please submit updated documents.</p>	<p>a) The Applicants consider that identifying important hedgerows to be removed or to be crossed using a reduced swathe is appropriate and proportionate. The removal of other hedgerows will be controlled through the approval of the Ecological Management Plan in accordance with Requirement 21 and therefore the Applicants consider that there are sufficient safeguards in place.</p> <p>b) The powers contained within Article 34 relate to all hedgerows. The Applicants consider that the powers in relation to hedgerows are appropriate and are sufficiently controlled and that no further provisions are necessary.</p> <p>c) The Applicants can confirm that changes to the <b>Important Hedgerows and Tree Preservation Order Plan</b> made during the Examinations are accommodated within the assessments presented within the</p>

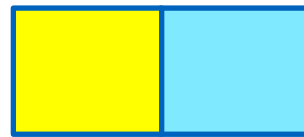


Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
				<p>Environmental Statement. No final revisions are proposed.</p> <p>The Applicants have reviewed REP-011, REP-030 and REP-010 and can confirm that there is an error within REP-030 (OLEMS). This error has been corrected in the updated OLEMS submitted at Deadline 6 (document reference 8.7). However the Applicants can confirm that Schedule 11 is correct and that no amendments need to be made at this stage.</p>
14.2		East Suffolk Council	<p><b>Pt 2: crossings of important hedgerows with reduced working widths</b></p> <p>Please confirm that proposed working width reductions are in correct locations and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>	<p>The Applicants note that the important hedgerow marked 28 on the <b>Important Hedgerows and Tree Preservation Order Plan</b> (APP-020) has been omitted from Part 1 of Schedule 11. This will be corrected in the draft DCO at Deadline 7. The Applicants can confirm that other than this change Schedule 11 is correct and that no further amendments need to be made at this stage.</p>
15	<b>Schedule 12 – Trees subject to tree preservation orders</b>			
15.1	From Pages 122	East Suffolk Council	<p><b>Tree Preservation Orders</b></p> <p>Please confirm that the correct species, locations and Tree Preservation Orders are referred to, that the works to be carried out are as assessed in the Environmental Statements and give rise to no</p>	<p>The Applicants can confirm that Schedule 12 is correct and that no amendments need to be made at this stage.</p>





Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			other matters. Alternatively, submit any final proposed revisions or corrections.	
<b>16</b>	<b>Schedule 13 – Deemed licence under the 2009 Act – generation assets</b>			
<b>16.1</b>		The Applicants The Marine Management Organisation	<p><b>General</b></p> <p>Please consider the following matters:</p> <p>a) Drafting references in the DML to “this Order” and “this Schedule” should arguably for better certainty be to “this licence”.</p> <p>b) Drafting references in the DML to a schedule “of the Order” should arguably be amended to “to the Order”. Schedules are Schedules “to” not “of” a statutory instrument or Act (unlike articles, paragraphs, sections, Parts, which are “of” the statutory instrument or Act).</p>	<p>a) The Applicants note that there is one reference to “this Order” in the DMLs. This was an error and it should refer to “the Order”. This will be corrected in the next version of the draft DCO. The Applicants are unable to find any references to “this Schedule” within the DMLs but agree that should any references to “this Schedule” be found, they should be amended to “this licence”.</p> <p>b) Noted.</p>
<b>16.2</b>		The Applicants The Marine Management Organisation	<p><b>Pt 1: Licensed marine activities</b></p> <p><b>Paras 2 &amp; 3: Details of licensed marine activities</b></p> <p>The ESs and dDCOs both reference the need for the Proposed Developments to include a helipad, tower, and mast on the offshore operation and maintenance platforms. Both the ESs and dDCOs specify the height of the offshore platform at 50m LAT. However, the DMLs do not appear to secure a maximum height for the helipad, tower, and mast in the range of parameters secured in</p>	<p>a) The Applicants' position is that it is not necessary to specifically secure the maximum height of the offshore platform inclusive of a helipad, tower and mast. The height of the platform is the parameter used in the assessment. The helipad tower and mast are not considered relevant nor part of the worst case. Given the distance of the Projects from the coast, location of the offshore platforms below the horizon, and reduced profile of any potential helipads and masts in comparison to the main</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>Conditions 2 and 3 to ensure that the proposed developments are within the Rochdale Envelope.</p> <p>a) Should the assessed maximum heights be specifically secured, or would it be sufficient for a general provision to be added to paras 2 and 3 requiring all development to within the maximum extent assessed in the ESs?</p> <p>b) Can preferred amended provisions be submitted on this point.</p> <p>See also Schs 1 Pt 1.</p>	<p>structure, reference to the maximum height of the offshore platform inclusive of these ancillary structures is not required.</p>
16.3		The Marine Management Organisation	<p><b>Paras 2 &amp; 3: Details of licensed marine activities</b></p> <p>The classes of licensed marine activities in a DML must be within the scope provided by the classes of works and relevant design parameters for works permitted in the dDCOs.</p> <p>a) Is the Marine Management Organisation content that no works are provided for in the DMLs that are not otherwise empowered in the dDCOs generally?</p> <p>b) Is any other drafting review required to ensure a clear and nested relationship between the DMLs details of licensed marine activities and Schs 1 Pt 1 of the dDCOs?</p>	<p>No response.</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
16.4		The Applicants The Marine Management Organisation The Wildlife Trusts Marine Environment Interested Parties	<b>Condition 21(3) – construction monitoring - cessation of piling</b>  Can the MMO, the Applicants, the Wildlife Trusts confirm that the condition wording is now agreed and that any further discussions in respect of the term 'significantly' will be addressed through updates to the Offshore In Principle Monitoring Plan, as opposed to the DML condition itself?	The Applicants understand that the Marine Management Organisation (MMO) does not require any amendment to be made to the condition and that any residual concerns can be addressed through the In Principle Monitoring Plan.
17	Schedule 14 – Deemed licence under the 2009 Act – offshore transmission assets			
17.1			<b>General</b>  See general commentary on Schs 13.	Noted.
17.2		The Marine Management Organisation	<b>Paras 2 &amp; 3: Details of licensed marine activities</b>  Please address the same point about classes of licensed activities for this DML as is made for Schs 13.	No response.
17.3		The Applicants The Marine Management Organisation	<b>Condition 17(3) – construction monitoring - cessation of piling</b>  Please see the comments in relation to the equivalent provision in Sch 13 (Condition 21(3)) and respond to the same matter for this condition.	See Applicants' response at row 16.4.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		The Wildlife Trusts Marine Environment Interested Parties		
<b>18</b>	Schedule 15 – Arbitration Rules			
<b>18.1</b>	From Pages 160	The Applicants Interest Parties / Affect Persons potentially engaged by Arbitration	<p><b>Level of detail</b></p> <p>The proposed arbitration rules are at a significantly higher level of detail than those typically provided for in made DCOs (see the discussion of these in the <a href="#">Thanet Extension Offshore Wind Farm Recommendation Report</a> (the Thanet Report) from page 441 (section 11.4)).</p> <p>As discussed from Para 11.4.18 in the Thanet Report, where additional detailed provisions are proposed, it is relevant to consider what '<i>mischief and defect</i>' the new provisions address that is not already adequately managed by established law and practice in existing made DCOs.</p> <p>In the case of the East Anglia THREE made DCO, the response to that question was that additional detailed arbitration provisions were justified to respond to an overlap in licenced sea areas between the approved development and an oil and gas exploration area. The rationale for more than typically detailed arbitration provisions is not</p>	<p>The Applicants consider that it is necessary to provide a robust process within which substantive differences between parties can be resolved. The intention is to achieve a fair, impartial and binding award on substantive differences between the parties and to receive determination within 4 months from the date the arbitrator is first appointed to ensure that disputes are resolved quickly. Given the urgent need for new renewable energy projects, it is imperative that any disputes are resolved promptly to enable delivery of the Projects in a timely manner.</p> <p>The Applicants consider that the inclusion of a set of Arbitration Rules within the draft DCO provides greater certainty to all parties involved in the process.</p> <p>The Applicants consider that the level of detail provided and the process and timescales specified are appropriate and</p>



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			<p>made clear for these dDCOs. However, those provisions were highly specific, whereas the provisions in this schedule are of general application to all matters subject to arbitration under Art 37.</p> <p>a) Should the proposed arbitration provisions be retained at this level of detail?</p> <p>b) Are the proposed arbitration provisions in these dDCOs necessary, justified and proportionate?</p> <p>c) Are the specific procedures and timescales appropriate and if not, how should they be amended?</p>	<p>proportionate to provide for a robust arbitration procedure and for the reasons set out above, the Applicants consider the provisions to be necessary and justified.</p> <p>The Arbitration Rules contained within Schedule 15 are largely based on the Arbitration Rules contained within the recently granted Hornsea Three Offshore Wind Farm Order 2020.</p>
18.2	Para 6	The Applicants Interest Parties / Affect Persons potentially engaged by Arbitration	<p><b>Costs</b></p> <p>The general principle in planning proceedings (other than civil litigation) is that absent 'unreasonable behaviour' by a party, costs normally lie where they fall.</p> <p>a) What is the justification for what is understood to be a novel approach where costs run with the event?</p> <p>b) The Applicants are requested to remove the stray bracket ']' at the end of para (3).</p>	<p>a) In arbitration, costs and expenses usually follow success and that is the rationale for this drafting.</p> <p>b) The Applicants will remove the stray square bracket.</p>
18.3	Para 7	The Applicants	<p><b>Confidentiality</b></p>	<p>The Applicants intend to amend paragraph 7 in the next version of the draft DCO to provide for an open arbitration procedure that is accessible to the public, subject to</p>



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		Interest Parties / Affect Persons potentially engaged by Arbitration	<p>Para 7 provides that arbitration proceedings are confidential unless agreed otherwise between the parties to the arbitration.</p> <p>a) Are there any subject matters or circumstances in which an arbitration relates to matters which are public interest matters and should be publicised?</p> <p>b) If so, how might that be provided for in drafting?</p>	certain exceptions (for example, where the arbitration relates to a dispute or difference under the protective provisions).
18.4	Para 9	The Applicants Interest Parties / Affect Persons potentially engaged by Arbitration	<p><b>Emergency Arbitrator</b></p> <p>This is understood to be a novel provision.</p> <p>a) Has any specific mischief or harm occurred to an existing or proposed Offshore Wind Farm development attributable to the absence of such a provision?</p> <p>b) The Applicants are asked to clarify the basis and any precedent for the proposal to include this provision.</p>	<p>Provisions for the appointment of emergency arbitrators can be found in many of the leading arbitral institutional rules including the International Chamber of Commerce, the London Court of International Arbitration and the International Centre for Dispute Resolution.</p> <p>The Applicants consider such provisions to be necessary as circumstances may arise where injunctive relief is required.</p>
18.5	Generally	The Applicants	<p><b>Arbitration Procedures affecting the Secretary of State</b></p> <p>Is the Secretary of State understood to be content to undertake the procedures identified and within the timescales provided?</p>	As part of the decision making process in respect of the DCO Applications it is anticipated that the Secretary of State will consider the Arbitration Rules and will come to a view as to the appropriateness of the provisions. As noted above, the Arbitration Rules are largely based on the rules contained within the recently granted Hornsea Three DCO.



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
19				
19.1	Paras 1	The Applicants Discharging authorities (see Arts 38)	<p><b>Applications for approvals – time period and deemed consent</b></p> <p>a) Are the discharging authorities content with the time period provided for applications for the discharge of requirements?</p> <p>b) If not, what should the relevant period be – and what is the justification for the change? East Suffolk Council has noted [REP5-047] considerable variability in recently made DCOs: it promotes 56 days. Would the Applicant be content with that period?</p> <p>c) Are the discharging authorities content with deemed consent provision in Paras 1(3) in the event that the discharging authority does not determine an application within the decision period? East Suffolk Council has noted that the deemed consent provision was not included in the made East Anglia ONE or East Anglia THREE DCOs and opposes them here on that basis. The Applicants are asked to identify specific concerns that have led to the proposed introduction of deemed consent.</p> <p>d) If not, what should the relevant procedure be – and what is the justification for the change?</p> <p>e) What specific additional information should the undertaker provide to the discharging</p>	<p>a) No response</p> <p>b) The 42 day time period specified in the appendix reflects the standard wording in PINS Advice Note 15. Whilst the Applicants consider the time periods to be appropriate and justified given that these are nationally significant infrastructure projects, the Applicants will amend the period specified in Paragraph 1(2)(a) to 56 days, as requested by ESC.</p> <p>c) Deemed approval mechanisms are regularly found within DCOs and the Applicants consider it necessary and appropriate to include this to ensure a decision is made within the specified period and that any remaining dispute can be dealt with without undue delay. As with the decision period, there is provision for the undertaker and the discharging authority to agree a different timescale to that set out within the text.</p> <p>d) No response.</p> <p>e) The Applicants will include some additional text within Schedule 15 to clarify the information to be provided by the undertaker.</p>



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			authorities and how (for example as provided for in the made Vanguard DCO) might this be provided for?	
19.2	Paras 2	Discharging Authorities (see Arts 38)	<p><b>Further information</b></p> <p>a) Are discharging authorities content with the procedure, time period and deemed satisfaction process provided for further information requests?</p> <p>b) If not, what should the relevant procedure and period be – and what is the justification for the change?</p>	No response.
19.3	Paras 3	Discharging authorities and appeal parties (the consultees) (see Arts 38)	<p><b>Appeals</b></p> <p>a) Are discharging authorities and other appeal parties (the consultees) content with the procedure and time period provided for appeals against refusals?</p> <p>b) If not, what should the relevant procedure and period be – and what is the justification for the change?</p>	No response.
<b>20</b>	<b>Schedules – Missing provision for certified documents</b>			
20.1	None – Missing provision	The Applicants	<p><b>Certified documents</b></p> <p>Would reference to certified documents be improved if a tabulated schedule of documents including the Environmental Statement for each application and any amendments to it, listing</p>	The Applicants will include a new Schedule in the draft DCO at Deadline 7 which will list the documents to be certified in a similar format to that set out within the Norfolk Boreas draft DCO.

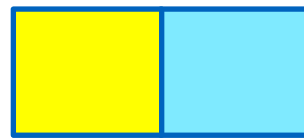




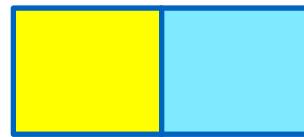
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			dates and version numbers, were included to support Arts 36?	
<b>21</b>	<b>Explanatory Note</b>			
<b>21.1</b>	Pages 167	East Suffolk Council Suffolk County Council Town and Parish Councils	<p><b>Inspection of Hard Copy Documents</b></p> <p>The Explanatory Note provides: 'A copy of the plans and book of reference referred to in this Order and certified in accordance with article 36 (certification of plans etc.) of this Order may be inspected free of charge at East Suffolk Council Customer Services at Woodbridge Library, New Street, Woodbridge IP12 1DT.'</p> <p>a) Are the Councils content that the hard copy documents referred to are lodged at this location?</p> <p>b) Would any other location(s) be more appropriate or convenient for access by members of local communities who cannot use digital technology?</p> <p>c) Does East Suffolk Council anticipate the maintenance of services of this nature at Woodbridge Library for the foreseeable future?</p>	No response.
<b>21.2</b>		The Applicants	<p><b>Inspection of digital documents</b></p> <p>It has become commonplace for the inspection of documents to be provided for online. Whilst</p>	The Applicants are considering whether this would be appropriate in the context of a Statutory Instrument and will make any



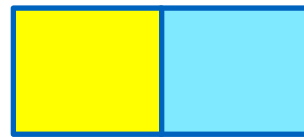
Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
		East Suffolk Council Suffolk County Council Town and Parish Councils	innovative in statutory drafting terms, might it be appropriate for an online document service or domain name to be referred to in the Explanatory Note?	updates that are considered appropriate to the Explanatory Note at Deadline 7.
<b>22</b>	<b>Format and validation</b>			
<b>22.1</b>	The dDCOs	The Applicants	<p><b>Format and validation</b></p> <p>The Applicants are requested to provide with their ultimate dDCO submissions, a copy of each dDCO in Microsoft Word that is in accordance with format for Statutory Instruments (SIs) in the official draft SI template and has passed through the draft SI checker. To the extent feasible, all outstanding format issues must be addressed before submission and the Applicants must submit the checker reports to evidence that this has been done, by <b>Deadline 7</b>.</p>	Noted, the Applicants will provide the documents requested.
<b>23</b>	<b>Agreements and Obligations</b>			
<b>23.1</b>	The dDCOs	The Applicants Suffolk County Council	<p><b>Agreements and obligations</b></p> <p>DCOs may be supported by agreements (including commercial agreements/ contracts or deeds under seal) and/ or Planning Obligations or other forms of statutory obligation. Relationships</p>	Noted. The Applicants have provided a working list of such agreements and their progress at Deadline 6, see <b>Working List of Planning Agreements and Commercial</b>



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		East Suffolk Council  The Marine Management Organisation	<p>between parties may also be regulated by processes such as Memoranda of Understandings (MoUs) which may or may not be intended to create legal relations. For any such documents, if the SoS is to place weight upon them for a planning decision:</p> <p>a) their purpose and relevance to planning must be justified;</p> <p>b) the reason why their subject matters are required to be dealt with in a separate document and not on the face of the dDCOs needs to be made clear; and</p> <p>c) where to enter into force or provide security for their subject matter, they require to be executed between parties, that process must be completed, and evidence of execution must be provided - before the end of the Examinations.</p> <p>The ExAs note that some such processes may relate to subject matters that are viewed as confidential between parties to them. Where for example they relate to (for example) the withdrawal of a statutory undertaker's RR, it can be sufficient for the process to be evidenced by documents from the Applicant(s) and the statutory undertaker concerned, making clear that the agreement has been concluded and that consequently a RR has been withdrawn. However, if any reliance is placed on a process</p>	<b>Agreements</b> (document reference ExA.AS-24.D6.V1)



Applicant ID	dDCO Commentaries	Question addressed to	ExA. Comment	Applicants' Response
			<p>providing security for specific actions, outcomes or standards to be met that are important and relevant, then the terms of the relevant document need to be provided to the ExAs.</p> <p>A working list of all such processes and progress towards their finalisation is to be provided at Deadline 6.</p> <p>Drafts for consultation and comment between parties must be provided by Deadline 7 alongside the final dDCO. If elements of these documents are considered to be confidential that must (for reasons) be made clear, but the process of consultation and comment between the engaged parties must continue.</p> <p>Final positions and (where these are not confidential), final texts must be submitted for Deadline 8, synchronised with final Statements of Common Ground. Where agreements are required to be executed, this is the point at which execution must occur and be evidenced.</p>	
23.2	Skills MoU	The Applicants Suffolk County Council East Suffolk Council	<p><b>Skills, education and economic development MoUs</b></p> <p>The conclusion of MoUs on these matters is supported by the Applicants, East Suffolk and Suffolk County Councils.</p> <p>a) Are there any remaining arguments for an alternative form of provision or security and if</p>	See Applicants' response at Row 5.31.



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		Economic, Tourism and Employment interests Interested Parties	<p>so, what should that be and what should be included within it?</p> <p>b) Suffolk County Council have suggested the following text for a new Requirement [REP5-058]. Please provide your views on the need for and content of this (see Missing Provision – requirements – MoU above).</p>	